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# PENNSYLVANIA BULLETIN

Volume 34

Number 25

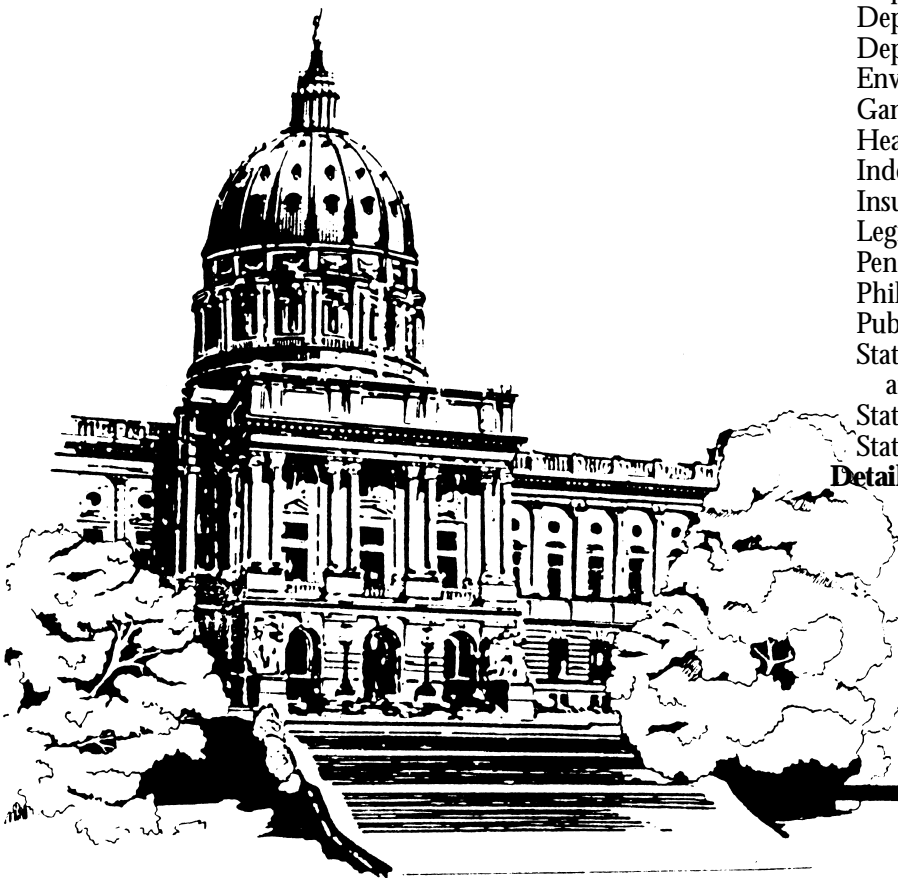
Saturday, June 19, 2004 • Harrisburg, Pa.

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State Tax Equalization Board

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**No. 355, June 2004**

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**BULLETIN**

(ISSN 0162-2137)

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published weekly by Fry Communications, Inc. for the

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# READER'S GUIDE TO THE PENNSYLVANIA BULLETIN AND PENNSYLVANIA CODE

## ***Pennsylvania Bulletin***

The *Pennsylvania Bulletin* is the official gazette of the Commonwealth of Pennsylvania. It is published every week and includes a table of contents. A cumulative subject matter index is published quarterly.

The *Pennsylvania Bulletin* serves several purposes. First, it is the temporary supplement to the *Pennsylvania Code*, which is the official codification of agency rules and regulations and other statutorily authorized documents. Changes in the codified text, whether by adoption, amendment, repeal or emergency action must be published in the *Pennsylvania Bulletin*. Further, agencies proposing changes to the codified text do so in the *Pennsylvania Bulletin*.

Second, the *Pennsylvania Bulletin* also publishes: Governor's Executive Orders; State Contract Notices; Summaries of Enacted Statutes; Statewide and Local Court Rules; Attorney General Opinions; Motor Carrier Applications before the Public Utility Commission; Applications and Actions before the Department of Environmental Protection; Orders of the Independent Regulatory Review Commission; and other documents authorized by law.

The text of certain documents published in the *Pennsylvania Bulletin* is the only valid and enforceable text. Courts are required to take judicial notice of the *Pennsylvania Bulletin*.

## **Adoption, Amendment or Repeal of Regulations**

Generally an agency wishing to adopt, amend or repeal regulations must first publish in the *Pennsylvania Bulletin* a Notice of Proposed Rulemaking. There are limited instances where the agency may omit the proposal step; they still must publish the adopted version.

The Notice of Proposed Rulemaking contains the full text of the change, the agency contact person, a fiscal note required by law and background for the action.

The agency then allows sufficient time for public comment before taking final action. An adopted proposal must be published in the *Pennsylvania*

*Bulletin* before it can take effect. If the agency wishes to adopt changes to the Notice of Proposed Rulemaking to enlarge the scope, they must re-propose.

## **Citation to the *Pennsylvania Bulletin***

Cite material in the *Pennsylvania Bulletin* by volume number and page number. Example: Volume 1, *Pennsylvania Bulletin*, page 801 (short form: 1 Pa.B. 801).

## ***Pennsylvania Code***

The *Pennsylvania Code* is the official codification of rules and regulations issued by Commonwealth agencies and other statutorily authorized documents. The *Pennsylvania Bulletin* is the temporary supplement to the *Pennsylvania Code*, printing changes as soon as they occur. These changes are then permanently codified by the *Pennsylvania Code Reporter*, a monthly, loose-leaf supplement.

The *Pennsylvania Code* is cited by title number and section number. Example: Title 10 *Pennsylvania Code*, § 1.1 (short form: 10 Pa.Code § 1.1).

Under the *Pennsylvania Code* codification system, each regulation is assigned a unique number by title and section. Titles roughly parallel the organization of Commonwealth government. Title 1 *Pennsylvania Code* lists every agency and its corresponding *Code* title location.

## **How to Find Documents**

Search for your area of interest in the *Pennsylvania Code*.

The *Pennsylvania Code* contains, as Finding Aids, subject indexes for the complete *Code* and for each individual title, a list of Statutes Used As Authority for Adopting Rules and a list of annotated cases. Source Notes give you the history of the documents. To see if there have been recent changes, not yet codified, check the List of *Pennsylvania Code* Chapters Affected in the most recent issue of the *Pennsylvania Bulletin*.

The *Pennsylvania Bulletin* also publishes a quarterly List of Pennsylvania Code Sections Affected which lists the regulations in numerical order, followed by the citation to the *Pennsylvania Bulletin* in which the change occurred.

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### Printing Format

Material proposed to be added to an existing rule or regulation is printed in **bold face** and material proposed to be deleted from such a rule or regulation is enclosed in brackets [ ] and printed in **bold face**. Asterisks indicate ellipsis of *Pennsylvania Code* text retained without change. Proposed new or additional regulations are printed in ordinary style face.

### Fiscal Notes

Section 612 of The Administrative Code of 1929 (71 P. S. § 232) requires that the Office of Budget prepare a fiscal note for regulatory actions and administrative procedures of the administrative departments, boards, commissions or authorities receiving money from the State Treasury stating whether the proposed action or procedure causes a loss of revenue or an increase in the cost of programs for the Commonwealth or its political subdivisions; that the fiscal note be published in the *Pennsylvania Bulletin* at the same time as the proposed change is advertised; and that the fiscal note shall provide the following information: (1) the designation of the fund out of which the appropriation providing for expenditures under the action or procedure shall be made; (2) the probable cost for the fiscal year the program is implemented; (3) projected cost estimate of the program for each of the five succeeding fiscal years; (4) fiscal history of the program for which expenditures are to be made; (5) probable loss of revenue for the fiscal year of its implementation; (6) projected loss of revenue from the program for each of the five succeeding fiscal years; (7) line item, if any, of the General Appropriation Act or other appropriation act out of which expenditures or losses of Commonwealth funds shall occur as a result of the action or procedures; (8) recommendation, if any, of the Secretary of the Budget and the reasons therefor.

The required information is published in the foregoing order immediately following the proposed change to which it relates; the omission of an item indicates that the agency text of the fiscal note states that there is no information available with respect thereto. In items (3) and (6) information is set forth for the first through fifth fiscal years; in that order, following the year the program is implemented, which is stated. In item (4) information is set forth for the current and two immediately preceding years, in that order. In item (8) the recommendation, if any, made by the Secretary of Budget is published with the fiscal note. See 4 Pa. Code § 7.231 *et seq.* Where “no fiscal impact” is published, the statement means no additional cost or revenue loss to the Commonwealth or its local political subdivision is intended.

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# List of Pa. Code Chapters Affected

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# THE COURTS

## Title 204—JUDICIAL SYSTEM GENERAL PROVISIONS

### PART IV. ADMISSION TO PRACTICE LAW [204 PA. CODE CH. 71]

#### Adoption of Rule 303 of the Pennsylvania Bar Admission Rules; No. 336 Supreme Court Rules; Doc. No. 1

#### Order

*Per Curiam:*

And Now, this 2nd day of June, 2004, the Pennsylvania Bar Admission Rules are amended by the adoption of Rule 303, to read as follows.

To the extent that notice of proposed rulemaking would be required by Pennsylvania Rule of Judicial Administration No. 103 or otherwise, the immediate adoption of Pa. B.A.R. 303 is hereby found to be required in the interest of justice and efficient administration. This Order shall be processed in accordance with Pennsylvania Rule of Judicial Administration No. 103(b) and shall be effective immediately.

#### Annex A

### TITLE 204. JUDICIAL SYSTEM GENERAL PROVISIONS

#### PART IV. ADMISSION TO PRACTICE LAW

#### CHAPTER 71. PENNSYLVANIA BAR ADMISSION RULES

#### Subchapter C. RESTRICTED PRACTICE OF LAW IN GENERAL

#### Rule 303. Limited Admission of Military Attorneys.

A. *General Rule.* Subject to the conditions and limitations set forth in this rule, a limited admission to practice law before the courts of this Commonwealth shall be granted to an attorney who is:

1. a full-time active duty military officer, serving in the office of the Staff Judge Advocate of the United States Army, Air Force, Navy, Marines, or Coast Guard, or a Naval Legal Service Office, located in the Commonwealth of Pennsylvania, or

2. a member of a reserve or national guard legal unit, even if not on full-time active duty, while associated with and performing services under the aegis of an established Expanded Legal Assistance Program (ELAP) located in the Commonwealth of Pennsylvania.

B. *Application.* An application for limited admission to practice under this rule shall be made on behalf of the applicant by the Staff Judge Advocate of the military installation to which the applicant is assigned by filing a motion with the Prothonotary on a form prescribed by the board and accompanied by:

1. documentation from the highest court of another state showing that the applicant is admitted to practice law and is on active status in such state at the time of filing the application;

2. a certificate of good standing from the highest court or the agency having jurisdiction over admission to the bar and the practice of law in every jurisdiction in which the applicant has been admitted to practice law, stating that the applicant is in good professional standing at the bar of such court or such state;

3. proof that the applicant has completed at least 15 credit hours of approved continuing legal education in subjects relating to Pennsylvania practice, procedure and professional responsibility.

C. *Action.* If the motion and required documents are in proper order, the Prothonotary shall enter the name of the applicant upon the docket of persons specially admitted to the bar of this Commonwealth subject to the restrictions of this rule and shall issue a limited certificate of admission in evidence thereof.

D. *Scope of Practice.* Military lawyers granted limited admission to practice law pursuant to this rule may represent active duty military personnel in enlisted grades E-1 through E-4, their dependents, and such other active duty military personnel and their dependents, who are under substantial financial hardship, before the courts and district justices of this Commonwealth in civil matters and administrative proceedings to the extent such representation is permitted by the supervisory Staff Judge Advocate or Commanding Officer. Admission to practice under this rule shall be limited to the matters specified in the preceding sentence and military lawyers admitted to practice pursuant to this rule shall not represent themselves to be members of the bar of this Commonwealth. Attorneys who are practicing under this rule shall not demand or receive any compensation from clients in addition to usual military pay to which they are entitled.

E. *Expiration of Admission.* The right to practice under this rule shall be limited to a period of four years unless extended by the Prothonotary for an additional four years upon written request of the Staff Judge Advocate of the military installation to which the applicant is assigned and shall cease when: (1) the applicant is admitted to the bar of this Commonwealth under any other rule; (2) the applicant fails to continue to meet the requirements of Sections B(1) and (2) above; (3) when a full-time active duty military officer licensed under this rule ceases to be stationed in Pennsylvania or (4) when a member of a reserve or national guard unit ceases to provide legal services under an established Expanded Legal Assistance Program located in Pennsylvania. When a military lawyer ends active duty military service in this state, or a member of a reserve or national guard unit ceases to provide legal services under an ELAP program, a written statement to that effect shall be filed with the Prothonotary by the Staff Judge Advocate of the military installation to which the applicant had been assigned.

F. *Status.* An attorney admitted under this rule is subject to the Rules of Professional Conduct and the Rules of Disciplinary Enforcement but shall not be required to pay the annual fee that is required to be paid by active attorneys who are admitted to practice in this Commonwealth.

[Pa.B. Doc. No. 04-1055. Filed for public inspection June 18, 2004, 9:00 a.m.]

# Title 231—RULES OF CIVIL PROCEDURE

## PART I. GENERAL

### [231 PA. CODE CH. 200]

#### Promulgation of New Rule 229.1 Governing the Delivery of Settlement Funds; No. 407 Civil Procedural Rules; Doc. No. 5

#### Order

*Per Curiam:*

And Now, this 7th day of June, 2004, new Rule of Civil Procedure 229.1 is promulgated to read as follows.

This Order shall be processed in accordance with Pa.R.J.A. 103(b) and shall be effective July 1, 2004.

#### Annex A

### TITLE 231. RULES OF CIVIL PROCEDURE

## PART I. GENERAL

### CHAPTER 200. BUSINESS OF COURTS

#### Rule 229.1. Settlement Funds. Failure to Deliver. Sanctions.

(a) As used in this rule,

"defendant" means a party released from a claim of liability pursuant to an agreement of settlement;

"plaintiff" means a party who, by execution of a release pursuant to an agreement of settlement, has agreed to forego a claim of liability against a defendant. The term includes a defendant who asserts a counterclaim;

"settlement funds" means any form of monetary exchange to a plaintiff pursuant to an agreement of settlement, but not including the annuity or future installment portion of a structured settlement.

(b) The parties may agree in writing to modify or waive any of the provisions of this rule.

(c) If a plaintiff and a defendant have entered into an agreement of settlement, the defendant shall deliver the settlement funds to the attorney for the plaintiff, or to the plaintiff if unrepresented, within twenty calendar days from receipt of an executed release.

**Official Note:** If court approval of the settlement is required, Rule 229.1 is not operative until the settlement is so approved.

Upon receipt of the settlement funds, the plaintiff shall file a discontinuance or deliver a discontinuance to the defendant.

(d) If settlement funds are not delivered to the plaintiff within the time required by subdivision (c), the plaintiff may seek to

(1) invalidate the agreement of settlement as permitted by law, or

(2) impose sanctions on the defendant as provided in subdivision (e) of this rule.

(e) A plaintiff seeking to impose sanctions on the defendant shall file an affidavit with the court attesting to non-payment. The affidavit shall be executed by the plaintiff's attorney and be accompanied by

(1) a copy of any document evidencing the terms of the settlement agreement,

(2) a copy of the executed release,

(3) a copy of a receipt reflecting delivery of the executed release more than twenty days prior to the date of filing of the affidavit,

(4) a certification by the attorney of the applicable interest rate,

(5) the form of order prescribed by subdivision (h), and

(6) a certification by the attorney that the affidavit and accompanying documents have been served on the attorneys for all interested parties.

(f) Upon receipt of the affidavit and supporting documentation required by subdivision (e), the defendant shall have twenty days to file a response.

(g) If the court finds that the defendant violated subdivision (c) of this rule and that there is no material dispute as to the terms of the settlement or the terms of the release, the court shall impose sanctions in the form of interest calculated at the rate equal to the prime rate as listed in the first edition of the *Wall Street Journal* published for each calendar year for which the interest is awarded, plus one percent, not compounded, running from the twenty-first day to the date of delivery of the settlement funds, together with reasonable attorneys' fees incurred in the preparation of the affidavit.

(h) The affidavit shall be accompanied by an order in substantially the following form:

(Caption)

ORDER

AND NOW, \_\_\_\_\_, upon consideration of the affidavit of \_\_\_\_\_, attorney for \_\_\_\_\_, and the (Plaintiff)

exhibits thereto, and upon a finding that payment was not made within twenty days of receipt of the executed release in the above captioned action, it is ORDERED that, in addition to the settlement funds of \$ \_\_\_\_\_, \_\_\_\_\_ pay forthwith interest at the rate of \_\_\_\_\_ % (Defendant)

on the aforementioned settlement funds from the twenty-first day to the date of delivery of the settlement funds, together with \$ \_\_\_\_\_ in attorneys' fees.

\_\_\_\_\_  
Judge

**Official Note:** The interest rate is determined in accordance with subdivision (g) of this rule.

The defendant is the party who has failed to deliver settlement funds as required by this rule. The plaintiff is the party who is seeking to impose sanctions on the defendant for that failure.

#### Explanatory Comment

New Rule 229.1 governs sanctions for failure to deliver settlement funds. The new rule provides a straightforward procedure of an affidavit filed by the plaintiff, a response filed by the defendant and a decision entered by the court.

Three points should be noted. First, while the rule establishes a standard with respect to the delivery of settlement funds, the "parties may agree in writing to modify or waive any of the provisions of this rule." Thus, where the standard cannot be met because of the particular type of party involved, industry practice or custom, or other consideration, the parties may agree not to be bound by the rule.

Second, subdivision (a) defines the terms "defendant," "plaintiff" and "settlement funds." The plaintiff is the party seeking the imposition of sanctions, whether that party is plaintiff or defendant in the action. Similarly, the defendant is the party against whom sanctions are sought, whether that party is plaintiff or defendant in the action.

Finally, the sanction imposed includes an award of interest on the settlement funds for the period during which the defendant has failed to deliver the funds to the plaintiff as required by the rule. The calculation of the rate of interest is identical to the manner of calculating damages for delay pursuant to Rule 238.

*By the Civil Procedural Rules Committee*

R. STANTON WETTICK, Jr.,  
Chair

[Pa.B. Doc. No. 04-1056. Filed for public inspection June 18, 2004, 9:00 a.m.]

## PART II. ORPHANS' COURT RULES [231 PA. CODE PART II]

### Proposed Amendment of Pa.O.C.R. 2.3 and Adoption of New Pa.O.C.R. 3.7; Recommendation No. 1 of 2004

The Orphans' Court Procedural Rules Committee proposes to adopt a new rule enabling practitioners to file Orphans' Court documents via electronic means. This Recommendation is being submitted to the bench and bar for comments and suggestions prior to its submission to the Supreme Court for adoption.

Proposed new material is bold.

All communications in reference to the proposed amendment should be sent, no later than July 19, 2004, to:

Dean R. Phillips, Chief Counsel  
Rebecca M. Darr, Deputy Counsel  
Orphans' Court Procedural Rules Committee  
5035 Ritter Road, Suite 700  
Mechanicsburg, PA 17055

Or via E-Mail to:  
orphanrules@pacourts.us

An Explanatory Comment follows the proposed rule and has been inserted by this Committee for the convenience of the bench and bar. It will not constitute part of the rule, nor will it be officially adopted or promulgated.

*By the Orphans' Court Procedural Rules Committee*

HONORABLE JOHN M. CASCIO,  
Chair

## Annex A

### TITLE 231. RULES OF CIVIL PROCEDURE

## PART II. ORPHANS' COURT RULES

### RULE 2: CONSTRUCTION AND APPLICATION OF RULES

#### Rule 2.3. Definitions.

The following words when used in these rules, unless the context clearly indicates otherwise, shall have the meanings ascribed to them in this rule:

\* \* \* \* \*

**"Electronic Filing" means the electronic transmission via the internet of legal papers to the Clerk of the Orphans' Court Division.**

\* \* \* \* \*

**"Filing party" means an attorney or party who filed a legal paper via electronic means.**

**"Legal paper" means a petition, pleading, or other document.**

\* \* \* \* \*

## RULE 3: PLEADING AND PRACTICE

### Rule 3.7. Electronic Filing and Service of Legal Papers.

(a) *Scope of Rule.* This rule authorizes a local Orphans' Court to permit or require electronic filing of legal papers and to establish procedures governing such filing by local rule. This rule does not mandate the implementation of electronic filing by a local Orphans' Court.

(b) *Electronic Filing of Legal Paper.*

(1) A filing party may file a legal paper with the Clerk by means of electronic filing if electronic filing has been implemented in the County of filing.

(2) Legal papers must be filed in portable document format (.pdf) by scanning or other method.

(3) Exhibits to a legal paper must be converted to portable document format (.pdf) by scanning or other method and incorporated as part of the legal paper filed pursuant to procedures established by local rule.

(4) Any party may require the filing party to file the original hard copy of a legal paper or exhibit by filing a notice to file with the Clerk and serving a copy of the notice upon the filing party. The filing party shall file the original hard copy with the Clerk within fourteen (14) days after service of the notice. Upon disposition of the matter before the Court, the original document may be returned to the party who filed it, or retained by the Court, as the Court may determine.

(c) *Signature, Verification and Retention of Legal Paper.*

(1) The electronic filing of a legal paper constitutes a certification by the filing party that the original hard copy was properly signed and, where applicable, verified.

(2) The filing party shall maintain the original hard copy of the legal paper, together with any exhibits filed, for five (5) years after:

(i) the disposition of the case;

(ii) entry of an order resolving the issue raised by the legal paper; or

(iii) in the event of an appeal, disposition by the appellate court of the issue raised by the legal paper.

(d) *Website and Filing Date.*

(1) The Court shall designate a website for the electronic filing of legal papers and a user name and password shall be issued to authorized users.

(2) The Court shall provide electronic filing access at all times. The time and date of the filing shall be that registered by the Court's computer system.

(e) *Delay in filing.* A filing party shall be responsible for any delay, disruption, or interruption of electronic transmission, and for the legibility of the document electronically filed, except for delays caused by the failure

of the Court's website. The filing party may petition the Court to resolve any dispute concerning an alleged failure of the Court's website.

(f) *Fees.*

(1) A filing party shall pay the fee for electronically filing a legal paper by depositing funds with the Clerk in advance, or by authorizing payment by credit or debit card, or as otherwise provided by the Court.

(2) The Court may assess an additional automation fee for each legal paper electronically filed which shall be collected by the Clerk, and then remitted monthly to the Court, to be used for the development, training, implementation and maintenance of the Orphans' Court electronic filing system, and other related uses.

(g) *Local Procedures.* The Court may develop further administrative procedures, as needed, to implement this rule and to provide for security of the electronic filing system, as required by changing technology.

(h) *Service of Legal Papers by Parties.*

(1) Service of original process shall not be permitted by electronic means, unless agreed to by the respondent.

(2) Service of subsequent legal papers may be effected by electronic transmission if the parties agree, or if an electronic mail address appears on an entry of appearance or other legal paper previously filed with the Court in the action. Electronic service is complete when the legal paper is sent to the recipient's electronic mail address, or when the recipient is notified by electronic mail that a legal paper affecting the recipient has been filed and is available for review on the Court's website.

(i) *Notices.* The Clerk and the Court may serve all notices via electronic means.

*Explanatory Note:* This Rule is designed as a general enabling mechanism by which local judicial districts can, if they so choose, implement electronic filing. Implementation procedures not inconsistent with this Rule will be determined by local rules of court.

Nothing in this Rule is intended to change the procedural requirements of Orphans' Court practice, as embodied in the statutes and rules of court. Rather this Rule is intended to facilitate the delivery of legal papers to the Court and the litigants, as well as to reduce record management burdens in the office of the Clerk. The term "electronic filing," "filing party," and "legal paper" are defined in Rule 2.3.

The Court may, from time to time, modify the approved electronic format of the Court to take into consideration the costs and security of the system, and advancing technology affecting maintenance of electronic data and images.

Existing procedures regarding record retention for paper documents by the Clerk shall apply to electronically filed documents. A local Orphans' Court which permits electronic filing may require filing and maintenance of paper documents or exhibits; it may also accept paper documents, convert such documents to electronic format, and destroy the paper documents. (See, *Record Retention & Disposition Schedule with Guidelines*, adopted by the Supreme Court of Pennsylvania by Order, dated November 28, 2001, as part of the amendment to Pa.R. J. A. No. 507).

### Explanatory Comment

The purpose of this Recommendation is to provide an enabling mechanism by which counties can experiment with electronic filing in their own judicial districts.

The general purpose of proposed new Rule 3.7 is to permit local Orphans' Courts to implement mandatory, or optional, electronic filing. It does not mandate the implementation of an electronic filing system. Rather, for the foreseeable future, it is anticipated that the decision whether to accept electronic filings, and whether electronic filings are mandatory, permitted, or prohibited will remain with the local Orphans' Court. Moreover, proposed Rule 3.7 is not intended to contravene or impede any future effort by the Pennsylvania Supreme Court and the Administrative Office of Pennsylvania Courts to implement a statewide electronic filing system which would either mandate the acceptance of electronically filed documents or require electronic filing in all judicial districts.

The proposed amendment to Rule 2.3 defines important terms such as what constitutes an "electronic filing."

Proposed Rule 3.7(b)(2) provides for the filing of legal papers in portable document format (.pdf) by scanning or other method. Proposed Rule 3.7(b)(3) provides that exhibits must also be converted to .pdf format. Proposed Rule 3.7(c) provides for electronic signatures and retention of original hard copies by the filing party. Proposed Rule 3.7(d) permits electronic filing at any time and deems the time and date of the filing to be that which is registered on the Court's computer system. Proposed Rule 3.7(e) holds the filing party responsible for delay, disruption or interruption of the electronic transmission except for delays caused by the failure of the court's website or computer system. Proposed Rule 3.7(f) provides for fees to be collected by the Clerk and used to improve the electronic filing system of the Court. Proposed Rule 3.7(g) allows the local court to enact further rules to implement the system and provide proper security. Proposed Rule 3.7(h) provides for optional service by electronic means. Proposed Rule 3.7(i) permits the Court to send notices by electronic means.

The Orphans' Court Committee solicits comments from the bench and bar on these proposed rule changes. Any suggestions will be considered.

[Pa.B. Doc. No. 04-1057. Filed for public inspection June 18, 2004, 9:00 a.m.]

## Title 234—RULES OF CRIMINAL PROCEDURE

[234 PA. CODE CHS. 1 AND 5—9]

**Order Promulgating New Rule 801, Renumbering Rules 801—810, and Approving the Revision of the Comments to Rules 120, 122, 521, 576, 604, 720, 901, and 904; No. 310 Criminal Procedural Rules; Doc. No. 2**

### Order

*Per Curiam:*

Now, this 4th day of June, 2004, it is *Ordered* pursuant to Article V, Section 10 of the Constitution of Pennsylvania that:

(1) New Rule of Criminal Procedure 801 is promulgated;

(2) Rules of Criminal Procedure 801, 802, 803, 804, 805, 806, 807, 808, 809, and 810 are renumbered as Rules 802, 803, 804, 805, 806, 807, 808, 809, 810, and 811 respectively; and

(3) the revisions of the Comments to Rules of Criminal Procedure 120, 122, 521, 576, 604, 720, 901, and 904 are approved,

all in the following form.

This *Order* shall be processed in accordance with Pa.R. J. A. 103(b), and shall be effective November 1, 2004.

*It Is Further Ordered*, from the date of this Order until 18 months after the effective date of this Order, that the educational requirements in new Rule 801 shall be phased in as follows:

(1) from the date of this Order until the November 1, 2004 effective date, the appointing or admitting court shall determine that the attorney has attended at least 6 hours of courses relevant to representation in capital cases, using the new Rule 801 educational criteria as a guide for relevance;

(2) by November 1, 2004, to be eligible for appointment or to enter an appearance pursuant to new Rule 801, an attorney shall have completed a minimum of 6 hours of training relevant to representation in capital cases, as approved by the Continuing Legal Education Board;

(3) by November 1, 2005, to be eligible for appointment or to enter an appearance pursuant to new Rule 801, an attorney shall have completed a minimum of 12 hours of training relevant to representation in capital cases, as approved by the Continuing Legal Education Board; and

(4) by May 1, 2006, to be eligible for appointment or to enter an appearance pursuant to new Rule 801, an attorney shall have completed a minimum of 18 hours of training relevant to representation in capital cases, as approved by the Continuing Legal Education Board.

#### Annex A

### TITLE 234. RULES OF CRIMINAL PROCEDURE

#### CHAPTER 1. SCOPE OF RULES, CONSTRUCTION AND DEFINITIONS, LOCAL RULES

##### PART B. Counsel

#### Rule 120. Attorneys—Appearances and Withdrawals.

\* \* \* \* \*

##### Comment

Representation as used in this rule is intended to cover court appearances or the filing of formal motions. Investigation, interviews, or other similar pretrial matters are not prohibited by this rule.

**An attorney may not represent a defendant in a capital case unless the attorney meets the educational and experiential requirements set forth in Rule 801 (Qualifications for Defense Counsel in Capital Cases).**

\* \* \* \* \*

**Official Note:** Adopted June 30, 1964, effective January 1, 1965; formerly Rule 303, renumbered Rule 302 and amended June 29, 1977 and November 22, 1977, effective as to cases in which the indictment or information is filed on or after January 1, 1978; amended March 22, 1993, effective January 1, 1994; renumbered Rule 120 and amended March 1, 2000, effective April 1, 2001; Comment

revised February 26, 2002, effective July 1, 2002; **Comment revised June 4, 2004, effective November 1, 2004.**

\* \* \* \* \*

#### Rule 122. Assignment of Counsel.

\* \* \* \* \*

##### Comment

\* \* \* \* \*

**An attorney may not be appointed to represent a defendant in a capital case unless the attorney meets the educational and experiential requirements set forth in Rule 801 (Qualifications for Defense Counsel in Capital Cases).**

Paragraph (C)(1) retains in the issuing authority or judge the power to assign counsel regardless of indigency or other factors when, in the issuing authority's or judge's opinion, the interests of justice require it.

\* \* \* \* \*

**Official Note:** Rule 318 adopted November 29, 1972, effective 10 days hence, replacing prior rule; amended September 18, 1973, effective immediately; renumbered Rule 316 and amended June 29, 1977, and October 21, 1977, effective January 1, 1978; renumbered Rule 122 and amended March 1, 2000, effective April 1, 2001; amended March 12, 2004, effective July 1, 2004; **Comment revised March 26, 2004, effective July 1, 2004; Comment revised June 4, 2004, effective November 1, 2004.**

\* \* \* \* \*

### CHAPTER 5. PRETRIAL PROCEDURES IN COURT CASES

#### PART C. Bail

#### Rule 521. Bail After Finding of Guilt.

##### (A) BEFORE SENTENCING

\* \* \* \* \*

##### (2) Other Cases

\* \* \* \* \*

(b) Except as provided in paragraph (A)(1), when the aggregate of possible sentences to imprisonment on all outstanding verdicts against the defendant within the same judicial district can exceed 3 years, the defendant shall have the same right to bail as before verdict unless the judge makes a finding:

\* \* \* \* \*

(ii) that the defendant poses a danger to any other person or to [ **he** ] the community or to himself or herself.

\* \* \* \* \*

##### Comment

For post-sentence procedures generally, see Rules 704 and 720. For additional procedures in cases in which a sentence of death or life imprisonment has been imposed, see Rules [ **809** ] **810** and [ **810** ] **811**.

\* \* \* \* \*

**Official Note:** Former Rule 4009, previously Rule 4011, adopted November 22, 1965, effective June 1, 1966; renumbered Rule 4009 and title amended July 23, 1973, effective 60 days hence; rescinded September 13, 1995, effective January 1, 1996, and replaced by Rule 532.

Present Rule 4009 adopted September 13, 1995, effective January 1, 1996. The January 1, 1996 effective dates extended to April 1, 1996; the April 1, 1996 effective dates extended to July 1, 1996; renumbered Rule 521 and amended March 1, 2000, effective April 1, 2001; **Comment revised June 4, 2004, effective November 1, 2004.**

*Committee Explanatory Reports:*

Final Report explaining the March 22, 1993 amendments to former Rule 4010B(3), included in new Rule [ 4009 ] 521(B)(3), published with the Court's Order at 23 Pa.B. 1699 (April 10, 1993).

\* \* \* \* \*

**PART F(1). Motion Procedures**

**Rule 576. Filing and Service by Parties.**

\* \* \* \* \*

**Comment**

Paragraph (A)(1) requires the filing of all written motions and answers. The provision also applies to notices and other documents only if filing is required by some other rule or provision of law. See, e.g., the notice of withdrawal of charges provisions in Rule 561 (Withdrawal of Charges by Attorney for the Commonwealth), the notice of alibi defense and notice of insanity defense or mental infirmity defense provisions in Rule 573 (Pretrial Discovery and Inspection), the notice that offenses or defendants will be tried together provisions in Rule 582 (Joinder—Trial of Separate Indictments or Informations), the notice of aggravating circumstances provisions in Rule [ 801 ] 802 (Notice of Aggravating Circumstances), and the notice of challenge to a guilty plea provisions in Municipal Court cases in Rule 1007 (Challenge to Guilty Plea).

\* \* \* \* \*

**Official Note:** Former Rule 9022 adopted October 21, 1983, effective January 1, 1984; amended March 22, 1993, effective January 1, 1994; amended July 9, 1996, effective September 1, 1996; renumbered Rule 576 and amended March 1, 2000, effective April 1, 2001. Former Rule 9023 adopted October 21, 1983, effective January 1, 1984; amended June 2, 1994, effective September 1, 1994; renumbered Rule 577 and amended March 1, 2000, effective April 1, 2001; rescinded March 3, 2004, effective July 1, 2004. Rules 576 and 577 combined and amended March 2, 2004, effective July 1, 2004; **Comment revised June 4, 2004, effective November 1, 2004.**

\* \* \* \* \*

**CHAPTER 6. TRIAL PROCEDURES IN COURT CASES**

**PART A. General Provisions**

**Rule 604. Opening Statements and Closing Arguments.**

\* \* \* \* \*

**Comment**

This rule establishes a uniform procedure throughout the Commonwealth for the guilt determining phase of the trial. For the procedures after the presentation of evidence at the sentencing phase of a death penalty case, see Rule [ 805 ] 806.

**Official Note:** Rule 1116 adopted January 24, 1968, effective August 1, 1968; Comment revised February 1, 1989, effective July 1, 1989; renumbered Rule 604 and

amended March 1, 2000, effective April 1, 2001; **Comment revised June 4, 2004, effective November 1, 2004.**

\* \* \* \* \*

**CHAPTER 7. POST-TRIAL PROCEDURES IN COURT CASES**

**PART B. Post-Sentence Procedures**

**Rule 720. Post-Sentence Procedures; Appeal.**

\* \* \* \* \*

**Comment**

\* \* \* \* \*

For post-sentence procedures after a sentence of death has been imposed, see Rule [ 810 ] 811.

\* \* \* \* \*

**CONTENTS OF ORDER**

Paragraph (B)(4) protects the defendant's right to appeal by requiring that the judge's order denying the motion, the clerk of courts' order denying the motion by operation of law, or the order entered memorializing a defendant's withdrawal of a post-sentence motion, contain written notice of the defendant's appeal rights. This requirement [ **insures** ] **ensures** adequate notice to the defendant, which is important given the potential time lapse between the notice provided at sentencing and the resolution of the post-sentence motion. See Rule 704(C)(3). See also *Commonwealth v. Miller*, 715 A.2d 1203 (Pa. Super. 1998), concerning the contents of the order memorializing the withdrawal of a post-sentence motion.

\* \* \* \* \*

**Official Note:** Previous Rule 1410, adopted May 22, 1978, effective as to cases in which sentence is imposed on or after July 1, 1978; rescinded March 22, 1993, effective as to cases in which the determination of guilt occurs on or after January 1, 1994, and replaced by present Rule 1410. Present Rule 1410 adopted March 22, 1993 and amended December 17, 1993, effective as to cases in which the determination of guilt occurs on or after January 1, 1994; amended September 13, 1995, effective January 1, 1996. The January 1, 1996 effective date extended to April 1, 1996; the April 1, 1996 effective date extended to July 1, 1996. Comment revised September 26, 1996, effective January 1, 1997; amended August 22, 1997, effective January 1, 1998; Comment revised October 15, 1997, effective January 1, 1998; amended July 9, 1999, effective January 1, 2000; renumbered Rule 720 and amended March 1, 2000, effective April 1, 2001; amended August 21, 2003, effective January 1, 2004; amended March 3, 2004, effective July 1, 2004; **Comment revised June 4, 2004, effective November 1, 2004.**

\* \* \* \* \*

**CHAPTER 8. SPECIAL RULES FOR CASES IN WHICH DEATH SENTENCE IS AUTHORIZED**

**Rule 801. Qualifications for Defense Counsel in Capital Cases.**

In all cases in which the district attorney has filed a Notice of Aggravating Circumstances pursuant to Rule 802, before an attorney may participate in the case either as retained or appointed counsel, the attorney must meet the educational and experiential criteria set forth in this rule.



## (1) EXPERIENCE: Counsel shall

(a) be a member in good standing of the Bar of this Commonwealth;

(b) be an active trial practitioner with a minimum of 5 years' criminal litigation experience; and

(c) have served as lead or co-counsel in a minimum of 8 significant cases which were tried to verdict before a jury. If representation is to be only in an appellate court, prior appellate or post-conviction representation in a minimum of 8 significant cases shall satisfy this requirement. A "significant case" for purposes of this rule shall be a murder, including manslaughter and vehicular homicide, or a felony of the first or second degree.

## (2) EDUCATION:

(a) During the 3-year period immediately preceding the appointment or entry of appearance, counsel shall have completed a minimum of 18 hours of training relevant to representation in capital cases, as approved by the Pennsylvania Continuing Legal Education Board.

(b) Training in capital cases shall include, but not be limited to, training in the following areas:

- (i) relevant state, federal, and international law;
- (ii) pleading and motion practice;
- (iii) pretrial investigation, preparation, strategy, and theory regarding guilt and penalty phases;
- (iv) jury selection;
- (v) trial preparation and presentation;
- (vi) presentation and rebuttal of relevant scientific, forensic, biological, and mental health evidence and experts;
- (vii) ethical considerations particular to capital defense representation;
- (viii) preservation of the record and issues for post-conviction review;
- (ix) post-conviction litigation in state and federal courts;
- (x) unique issues relating to those charged with capital offenses when under the age of 18.
- (xi) Counsel's relationship with the client and family;

(c) The Pennsylvania Continuing Legal Education Board shall maintain and make available a list of attorneys who satisfy the educational requirements set forth in this rule.

**Comment**

The purpose of this rule is to provide minimum uniform statewide standards for the experience and education of appointed and retained counsel in capital cases, to thus ensure such counsel possess the ability, knowledge, and experience to provide representation in the most competent and professional manner possible. These requirements apply to counsel at all stages of a capital case, including pretrial, trial, post-conviction, and appellate.

The educational and experience requirements of the rule may not be waived by the trial or appellate court. A court may allow representation by an out-of-state attorney pro hac vice, if satisfied the attorney has equivalent experience and educational qualifications, and is a member in good standing of the Bar of the attorney's home jurisdiction.

An attorney may serve as "second chair" in a capital case without meeting the educational or experience re-

quirements of this rule. "Second chair" attorneys may not have primary responsibility for the presentation of significant evidence or argument, but may present minor or perfunctory evidence or argument, if deemed appropriate in the discretion of the court. Service as a "second chair" in a homicide case will count as a trial for purposes of evaluating that attorney's experience under paragraph (A)(1)(c) of this rule.

The CLE Board may approve entire courses focusing on capital litigation, or individual portions of other courses dealing with general areas relevant to capital cases (such as trial advocacy). It is expected that counsel will attend training programs encompassing the full range of issues confronting the capital litigator from the investigative and pretrial stages through appellate and post-conviction litigation in the state and federal courts.

Determination of experience will be accomplished by the appointing or admitting court, by colloquy or otherwise.

For the entry of appearance and withdrawal of counsel requirements generally, see Rule 120.

For the appointment of trial counsel, see Rule 122.

For the entry of appearance and appointment of counsel in post-conviction collateral proceedings, see Rule 904.

**Official Note:** Adopted June 4, 2004, effective November 1, 2004.

Rule [ 801 ] 802. Notice of Aggravating Circumstances.

\* \* \* \* \*

**Official Note:** Previous Rule 352 adopted July 1, 1985, effective August 1, 1985; renumbered Rule 353 February 1, 1989, effective July 1, 1989. Present Rule 352 adopted February 1, 1989, effective as to cases in which the arraignment is held on or after July 1, 1989; Comment revised October 29, 1990, effective January 1, 1991; amended January 10, 1995, effective February 1, 1995; renumbered Rule 801 and amended March 1, 2000, effective April 1, 2001; amended May 10, 2002, effective September 1, 2002; **renumbered Rule 802 June 4, 2004, effective November 1, 2004.**

\* \* \* \* \*

Rule [ 802 ] 803. Guilty Plea Procedure.

\* \* \* \* \*

**Official Note:** Original Rule 352 adopted September 22, 1976, effective November 1, 1976; amended May 26, 1977, effective July 1, 1977; rescinded April 2, 1978, effective immediately. Former Rule 352 adopted July 1, 1985, effective August 1, 1985; renumbered Rule 353 February 1, 1989, effective July 1, 1989; renumbered Rule 802 and amended March 1, 2000, effective April 1, 2001; **renumbered Rule 803 June 4, 2004, effective November 1, 2004.**

\* \* \* \* \*

Rule [ 803 ] 804. Procedure When Jury Trial is Waived.

\* \* \* \* \*

**Official Note:** Original Rule 353 adopted September 22, 1976, effective March 1, 1977, effective date extended to April 1, 1977; amended May 26, 1977, effective July 1, 1977; rescinded April 2, 1978, effective immediately. Former Rule 353 adopted July 1, 1985, effective August 1, 1985, renumbered Rule 354 February 1, 1989, effective July 1, 1989; renumbered Rule 803 and amended March

1, 2000, effective April 1, 2001; **renumbered Rule 804 June 4, 2004, effective November 1, 2004.**

\* \* \* \* \*

Rule [ 804 ] 805. No Sealed Verdict.

\* \* \* \* \*

**Official Note:** Original Rule 354 adopted September 22, 1976, effective November 1, 1976; rescinded April 2, 1978, effective immediately. Former Rule 354 adopted July 1, 1985, effective August 1, 1985; renumbered Rule 355 February 1, 1989, effective July 1, 1989; renumbered Rule 804 and amended March 1, 2000, effective April 1, 2001; **renumbered Rule 805 June 4, 2004, effective November 1, 2004.**

\* \* \* \* \*

Rule [ 805 ] 806. Closing Arguments at Sentencing Hearing.

\* \* \* \* \*

**Official Note:** Rule 356 adopted February 1, 1989, effective July 1, 1989; renumbered Rule 805 and Comment revised March 1, 2000, effective April 1, 2001; **renumbered Rule 806 June 4, 2004, effective November 1, 2004.**

\* \* \* \* \*

Rule [ 806 ] 807. Sentencing Verdict Slip.

(A) JURY

(1) In all cases in which the sentencing proceeding is conducted before a jury, the judge shall furnish the jury with a jury sentencing verdict slip in the form provided by Rule [ 807 ] 808.

\* \* \* \* \*

(B) TRIAL JUDGE

(1) In all cases in which the defendant has waived a sentencing proceeding before a jury and the trial judge determines the penalty, the trial judge shall complete a sentencing verdict slip in the form provided by Rule [ 808 ] 809.

\* \* \* \* \*

**Official Note:** Rule 357 adopted February 1, 1989, effective July 1, 1989; renumbered Rule 806 and amended March 1, 2000, effective April 1, 2001; **renumbered Rule 807 June 4, 2004, effective November 1, 2004.**

\* \* \* \* \*

Rule [ 807 ] 808. Form for Jury Sentencing Verdict Slip.

\* \* \* \* \*

**Official Note:** Rule 358A adopted February 1, 1989, effective July 1, 1989; renumbered Rule 807 and amended March 1, 2000, effective April 1, 2001; **renumbered Rule 808 June 4, 2004, effective November 1, 2004.**

\* \* \* \* \*

Rule [ 808 ] 809. Form for Trial [ Judge ] Judge Sentencing Verdict Slip.

\* \* \* \* \*

**Official Note:** Rule 358B adopted February 1, 1989, effective July 1, 1989; renumbered Rule 808 and Comment revised March 1, 2000, effective April 1, 2001; **renumbered Rule 809 June 4, 2004, effective November 1, 2004.**

\* \* \* \* \*

Rule [ 809 ] 810. Sentence.

\* \* \* \* \*

**Comment**

\* \* \* \* \*

Once sentence has been imposed, the time for filing the post-sentence motion begins to run. See Rules [ 810 ] 811 and 720.

**Official Note:** Previous rule, originally numbered Rule 355, adopted September 22, 1976, effective November 1, 1976; rescinded April 2, 1978, effective immediately. Former Rule 355 adopted July 1, 1985, effective August 1, 1985; amended and renumbered Rule 359 December 31, 1987, effective immediately; Comment revised October 29, 1990, effective January 1, 1991; rescinded March 22, 1993, effective as to cases in which the determination of guilt occurs on or after January 1, 1994, and replaced by present Rules 810, 704 and 720. Present Rule 359 adopted March 22, 1993, effective as to cases in which the determination of guilt occurs on or after January 1, 1994; renumbered Rule 809 and Comment revised March 1, 2000, effective April 1, 2001; **renumbered Rule 810 and Comment revised June 4, 2004, effective November 1, 2004.**

\* \* \* \* \*

Rule [ 810 ] 811. Post-Sentence Motion.

\* \* \* \* \*

**Comment**

This rule, Rule [ 809 ] 810, Rule 704, and Rule 720 replace previous Rule 359.

\* \* \* \* \*

**Official Note:** Rule 360 adopted March 22, 1993, effective as to cases in which the determination of guilt occurs on or after January 1, 1994; renumbered Rule 810 and amended March 1, 2000, effective April 1, 2001; **renumbered Rule 811 and Comment revised June 4, 2004, effective November 1, 2004.**

\* \* \* \* \*

**CHAPTER 9. POST-CONVICTION COLLATERAL PROCEEDINGS**

**Rule 901. Initiation of Post-Conviction Collateral Proceedings.**

\* \* \* \* \*

**Comment**

\* \* \* \* \*

The petition for post-conviction relief under these rules is not intended to be a substitute for or a limitation on the availability of appeal or a post-sentence motion. See Pa.Rs.Crim.P. 720 and [ 810 ] 811. Rather, the Chapter 9 Rules are intended to require that, in a single proceeding, the defendant must raise and the judge must dispose of all grounds for relief available after conviction and exhaustion of the appellate process, either by affirmance or by the failure to take a timely appeal.

\* \* \* \* \*

**Official Note:** Previous Rule 1501 adopted January 24, 1968, effective August 1, 1968; amended November 25, 1968, effective February 3, 1969; amended February 15, 1974, effective immediately; rescinded December 11, 1981, effective June 27, 1982; rescission vacated June 4, 1982; rescinded November 9, 1984, effective January 2,

1985. Former Rule 1501 adopted November 9, 1984, effective January 2, 1985; rescinded February 1, 1989, effective July 1, 1989, and replaced by present Rule 902. Present Rule 1501 adopted February 1, 1989, effective July 1, 1989; amended March 22, 1993, effective January 1, 1994; amended August 11, 1997, effective immediately; Comment revised July 23, 1999, effective September 1, 1999; renumbered Rule 901 and amended March 1, 2000, effective April 1, 2001; **Comment revised June 4, 2004, effective November 1, 2004.**

\* \* \* \* \*

**Rule 904. Entry of Appearance and Appointment of Counsel; In Forma Pauperis.**

\* \* \* \* \*

**Comment**

\* \* \* \* \*

Paragraph (G) was added in 2000 to provide for the appointment of counsel for the first petition for post-conviction collateral relief in a death penalty case at the conclusion of direct review.

**An attorney may not be appointed to represent a defendant in a capital case unless the attorney meets the educational and experiential requirements set forth in Rule 801 (Qualifications for Defense Counsel in Capital Cases).**

**Official Note:** Previous Rule 1504 adopted January 24, 1968, effective August 1, 1968; rescinded December 11, 1981, effective June 27, 1982; rescission vacated June 4, 1982; rescinded February 1, 1989, effective July 1, 1989, and replaced by Rule 1507. Present Rule 1504 adopted February 1, 1989, effective July 1, 1989; amended August 11, 1997, effective immediately; amended January 21, 2000, effective July 1, 2000; renumbered Rule 904 and amended March 1, 2000, effective April 1, 2001; amended February 26, 2002, effective July 1, 2002; **Comment revised March 12, 2004, effective July 1, 2004; Comment revised June 4, 2004, effective November 1, 2004.**

\* \* \* \* \*

[Pa.B. Doc. No. 04-1058. Filed for public inspection June 18, 2004, 9:00 a.m.]

## Title 25—LOCAL COURT RULES

### CHESTER COUNTY

#### Amendments to Rules of Civil Procedure

##### Order

*And Now*, this 3rd day of June, 2004, the following amendments to the Chester County Rules of Civil Procedure are hereby adopted effective thirty (30) days after publication in the *Pennsylvania Bulletin*, in accordance with Pa.R.C.P. No. 239(d). All previous local rules of civil procedure are hereby repealed as of the effective date of these rules, except the rules of the Family Court and of the Orphans' Court Division of the Court of Common Pleas of Chester County, which rules shall remain in full force and effect. Comments which accompany the rules were prepared for the convenience of the bench and bar

but are not part of the rules and are not officially adopted.

HONORABLE HOWARD F. RILEY, Jr.,  
*President Judge*

#### Rules of Civil Procedure

##### Court of Common Pleas of Chester County

##### Rule 51.1. Citing the Rules

These rules shall be known as the Chester County Rules of Civil Procedure, and shall be cited as "C.C.R.C.P. \_\_\_\_\_."

##### Rule 200. Assignment of Court Business

All civil litigation in this court shall be divided into the following categories:

Category A shall consist of all civil matters which include matters filed for jury trial, non-jury trial, equity matters, and cases appealed from arbitration.

Category B shall consist of miscellaneous matters such as name change petitions, license suspension appeals, mechanics lien matters, zoning appeals and other matters requiring disposition by a judge.

COMMENT: Category B is not an exclusive listing of matters requiring disposition by the court. For example, petitions for appointment of arbitrators or for minor's compromise, etc. would be includable.

Category C shall consist of compulsory arbitrations.

Category D shall include all matters under the jurisdiction of the family court division.

Category E shall include all matters which do not require action by a judge, including but not limited to confessions of judgment, transfers of judgment, liens, waivers of liens, lis pendens, etc.

Matters under category D and those within the jurisdiction of the orphans' court division shall not be assigned to individual judges under this rule but shall be handled in accordance with the rules and practices of the orphans' court division and family court division.

The president judge may modify the type of case to be placed in each category or create additional categories of cases.

##### A. Individual Assignment of Cases

For matters set forth in categories A, B and C, when the case is commenced it shall be assigned for trial and pre-trial proceedings to a designated judge. The designated judge shall be responsible for the matter from the time of initial filing until final disposition, unless otherwise directed by the President Judge of the Court of Common Pleas of Chester County. The assignment of the case shall be made by the prothonotary in accordance with regulations promulgated by the president judge. The assignment regulations shall create a blind rotation system which balances the case loads among the judges. The sequence of assignment shall be kept secret and all steps shall be taken to prevent any person from being able to ascertain the name of the judge to whom any case may be assigned before the assignment. When an action is commenced (whether by writ, complaint or otherwise) the papers filed with the prothonotary must be accompanied by a cover sheet in the form provided by the prothonotary and designed to assist the prothonotary in the assignment of each case.

**B. Related Cases**

If, at the time of the filing of any civil action or proceeding, counsel is aware that a related claim is pending, counsel shall so notify the court administrator in writing. Civil cases are deemed related when they involve common issues of fact or grow out of the same transaction. If it is later discovered that two or more matters are related, the judge to whom the latter case has been assigned may refer the case to the court administrator for reassignment to the judge to whom the earlier related case was assigned.

**C. Reassignment of Cases**

The president judge may reassign cases whenever necessary to eliminate conflicts, to promote a balance of the work load among the judges and to improve prompt and just administration of all cases.

**Rule 200.1. Emergency and Injunctive Matters**

The president judge, or the court administrator under direction of the president judge, shall assign, on a rotating basis, an emergency judge and an emergency family court judge. Emergency and injunctive matters which fall under categories A, B and C shall first be addressed to the judge to whom the case is assigned. If the assigned judge is absent or unavailable the emergency judge shall be responsible for emergency and injunctive matters which fall under categories A, B and C. The emergency family court judge shall be responsible for emergencies and injunctive matters which fall under category D.

**Rule 205.2(a). Filing Legal Papers with the Prothonotary**

All pleadings and other legal papers shall be typewritten (not less than 12 point type), double-spaced and securely fastened.

**Rule 205.2(b). Cover Sheet**

Each complaint, praecipe or other document commencing an action shall have attached to it a cover sheet in the form set forth below, which shall be served with the complaint, praecipe or other document commencing an action upon all other parties.

COMMENT: If an action is commenced without attaching such cover sheet, the prothonotary shall accept the document for filing, but shall promptly thereafter notify the lawyer or party filing the action to file a cover sheet. The Prothonotary, in such notice, shall provide the lawyer or party with a form of cover sheet and a copy of this Local Rule. If the lawyer or party shall fail, within twenty (20) days of the mailing of such notice, to file a cover sheet, the plaintiff may not proceed further in the action until the cover sheet is filed, but this rule shall in no way affect the obligation of the plaintiff to serve the original process.

Chester County Court of Common Pleas  
CIVIL COVER SHEET

1. CASE CAPTION:                      1a. CASE NO.:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

2. PLAINTIFF(s) (Name, Address)

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**3. PLAINTIFF'S COUNSEL:**

(Name, firm, address, telephone and attorney ID #)

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**4. DEFENDANT(s) (Name, Address)**

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**5. ARE THERE ANY RELATED CASES?**  
(See C.C.R.C.P. 200[B])

☐ Yes                                      ☐ No

IF YES, SHOW CASE NOS. AND CAPTIONS:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**6. IF THIS IS AN APPEAL FROM A DISTRICT JUSTICE JUDGMENT, WAS APPELLANT ☐ PLAINTIFF OR ☐ DEFENDANT IN THE ORIGINAL ACTION?****7. CASE CODE:** \_\_\_\_\_

DESCRIPTION: \_\_\_\_\_

**8. IS THIS AN ARBITRATION CASE? ☐ YES    ☐ NO**  
(Arbitration Limit is \$50,000.00. See C.C.R.C.P. 1301.1)**ARBITRATION CASES ONLY**

An arbitration hearing in this matter is scheduled for:

\_\_\_\_\_

\_\_\_\_\_

in the jury lounge, Chester County Courthouse, West Chester, PA. The parties and their counsel are directed to report to the jury lounge for an arbitration hearing in this matter on the date and time set forth above.

**NOTICE OF TRIAL LISTING DATE**

Pursuant to C.C.R.C.P. 249.3, if this case is not subject to compulsory arbitration it will be presumed ready for trial twelve (12) months from the date of the initiation of the suit and will be placed on the trial list one (1) year from the date the suit was filed unless otherwise ordered by the Court.

To obtain relief from automatic trial listing a party must proceed pursuant to C.C.R.C.P. 249.3(b), request an administrative conference and obtain a court order deferring the placement of the case on the trial list until a later date.

FILE WITH : Prothonotary of Chester County  
2 North High Street—Ste. 1  
West Chester, PA 19380-3050

THIS COVER SHEET IS REQUIRED BY C.C.R.C.P. 205.2(b) AND MUST BE SERVED UPON ALL OTHER PARTIES TO THE ACTION IMMEDIATELY AFTER FILING.

SUBMIT ENOUGH COPIES FOR SERVICE

CASE TYPES CODES AND DESCRIPTIONS

All initial filings in this court, which include actions commenced elsewhere and being transferred to or lodged in this court, require the assignment of a case type code.

COMMENT: As of the date of adoption of these rules, the case type codes were as set forth below. The prothonotary maintains a current list of case type codes.

#### APPEAL/CERTIORARI FROM DISTRICT JUSTICE

- 132 Contract
- 137 Landlord/Tenant
- 134 Personal Injury
- 133 Property Damage
- 136 Writ of Certiorari
- 135 Other Appeal from District Justice

#### COMPLAINTS/PRAECIPES FOR WRITS OF SUMMONS—LAW

- 123 Asbestos Related
- 87 Automobile Accident—Bodily Injured Involved
- 87PD Automobile Accident—Property Damage Only
- 82 Breach of Contract
- 128 Breach of Warranty
- 83 Construction of Contract
- 1 Declaratory Judgment (at law only)
- 84 Defamation
- 23 Ejectment
- 129 Ground Rent
- 32 Other Negligence
- 32PD Other Negligence—Property Damage Only
- 25 Mandamus
- 86 Medical Malpractice
- 108 Minors Compromise
- 27 Mortgage Foreclosure
- 28 Partition
- 88 Products Liability
- 29 Quiet Title
- 30 Quo Warranty
- 31 Replevin
- 21 To Conform Previously Confessed Judgment
- 20 Other Complaint or Praecept for Writ of Summons at law

#### EMINENT DOMAIN

- 35 Declaration of Taking
- 46 Petition for Appointment of Board/Jury of View
- 114 Other Eminent Domain Proceeding

#### EQUITY—COMPLAINTS/PRAECIPES FOR WRITS OF SUMMONS IN EQUITY

- 130 Declaratory Judgment (in equity only)
- 24 Injunctive Relief—Preliminary and/or Final
- 61 Other Complaint or Praecept for Writ of Summons in equity only

#### FAMILY

- 19 Annulment
- 18 Custody/Partial Custody/Visitation
- 131 Divorce (ancillary relief requested)
- 22 Divorce (no ancillary relief, e.g. equitable distribution, alimony pendente lite, etc., requested—custody count may be included)
- 47 Protection from Abuse

#### MECHANICS LIEN

- 42 Mechanic's Lien Claim

#### MISCELLANEOUS

- 5 Appeal from Board of Assessment
- 8 Appeal from Suspension of Operators License
- 52 Change of Name
- 76 Compel Appointment of Arbitrator
- 77 Compel Arbitrator
- 75 Confirm Arbitration Award
- 141 Election Appeal or Other Challenge
- 45 Involuntary Dissolution

- 98 Issuance of Foreign Subpoena
- A Leave to Appeal Nunc Pro Tunc (assign case code of underlying matter)
- 100 Other Miscellaneous Motions, Petitions and Appeals
- 48 Writ of Habeas Corpus

#### MUNICIPAL/ZONING

- 9 Zoning Appeal
- 74 Any other Municipal appeal—Non-Zoning

#### ALL OTHER

- 43 Other—any case type not covered by any of the above

#### Rule 206.1. Petitions

##### Rule 206.1(a). Purpose and Designation

All applications for which the procedure for the relief sought is not otherwise specifically addressed elsewhere in the rules and which require the assertion of facts not of record are hereby designated as petitions. A petition, generally speaking, is a request for relief ancillary to a given cause of action. Each petition shall be accompanied by a verification or affidavit verifying the facts stated in the petition.

##### Rule 206.1(b). Title

A petition should state in its title exactly what is being sought, by whom and against whom (e.g. rather than merely "petition", it should be designated Defendant Jones' Petition for Extension of Time to Join Smith as Additional Defendant).

##### Rule 206.2. Motions, Petitions and Preliminary Objections—General Requirements

All motions, petitions and preliminary objections shall be in writing and shall be accompanied by a proposed form of order; a petition shall also be accompanied by an order allowing a rule to show cause in form as set forth below, which order is hereinafter sometimes referred to as a "rule" or a "rule to show cause." Every motion and petition shall refer to the procedural rule, statute, or other authority relied upon to justify the relief requested and shall display counsel's name, address, I.D. number and telephone number. No motion, petition or preliminary objection shall be dismissed for failure to be accompanied by a form of proposed order or for failure to be accompanied by a form of proposed order or for failure to refer to the procedural rule, statute or other authority relied upon or for failure to display counsel's name, address, attorney identification number or telephone number.

COMMENT: For discovery motions and petitions, see certification requirements under rule C.C.R.C.P. 208.2(e).

##### Rule 206.3. Service and Certification

(a). Immediately after filing with the prothonotary, each party, shall serve upon all other counsel and unrepresented parties complete copies of all rules, proposed orders, petitions motions, preliminary objections, and answers to same.

(b) Each party shall, within five (5) days of the filing of any document, file with the prothonotary a separate document in the form specified by C.C.R.C.P. 206.3(d) certifying that service of a complete copy has been made.

(c) The court at its discretion may strike, dismiss or deny, any petition, motion or preliminary objection for failure of the moving party to comply with the service and certification requirements of this rule.

(d) Certifications of service shall be in substantially the following form:

(CAPTION)  
CERTIFICATION OF SERVICE

This is to certify that in this case, assigned to

Judge [insert the name of the judge to whom the case is assigned], complete copies of all papers contained in [insert specifically the title of petition/motion/preliminary objections/praecipe, etc. served] have been served upon the following persons, by the following means and on the date(s) stated:

Name:                      Means of Service:      Date of Service:

_____	_____	_____
_____	_____	_____
_____	_____	_____

Attorney's Name  
Address  
I. D. Number  
Telephone Number

**Rule 206.4(c). Procedure For Rule To Show Cause**

(a) The petitioner shall attach to any petition a proposed order substantially in the following form:

(CAPTION)  
ORDER

AND NOW, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, upon consideration of the foregoing petition, it is hereby ordered that

- 1) A rule is issued upon the respondent to show cause why the petitioner is not entitled to the relief requested;
- 2) The respondent shall file an answer to the petition within twenty (20) days of service upon the respondent;
- 3) The petition shall be decided under Pa.R.C.P. No. 206.7;
- 4) Depositions shall be completed within forty-five (45) days of the service upon petitioner of the answer to the petition;
- 5) Notice of the entry of this order shall be provided to all parties by the petitioner.

BY THE COURT:

\_\_\_\_\_  
J.

(b) In instances where the order seeks a stay order or other substantive relief or seeks to have a hearing date set immediately or otherwise requests special immediate relief, the form of the order shall be modified accordingly and the order shall contain such of the following provisions as are appropriate:

A hearing on the within petition is hereby scheduled to be held on \_\_\_\_\_, the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, at \_\_\_\_\_ M. in Courtroom No. \_\_\_\_\_, of the Courthouse of Chester County, West Chester, Pennsylvania.

and/or

[If a stay is being requested]

All proceedings shall stay in the meantime. The petitioner is directed to file a bond in the amount of \$ \_\_\_\_\_ by the following date: \_\_\_\_\_. Upon cause shown by the respondent, the court may increase the amount of the bond or security.

**Rule 206.4(c)(1). Per Curiam**

The procedure of Pa.R.C.P. No. 206.6 is adopted. An order containing a rule to show cause, except one which by its terms grants substantive relief or which contains a stay order or seeks to require an answer by respondent(s) in less than twenty (20) days, shall be issued per curiam when presented to the court administrator

COMMENT: Even if respondent does not deny any of the facts set forth in the petition, if respondent objects to the granting of the relief requested either on the basis that the facts set forth in the petition, even if true, do not warrant the granting of the relief sought, or on any other basis, respondent should file an answer specifically so stating.

**Rule 206.4(c)(2). Stay or Substantive Relief**

Any petitioner seeking a rule which stays proceedings or which by its terms grants substantive relief shall present the petition, proposed order and rule to the judge assigned to the case, except for family court and orphans' court matters which shall be presented to a judge sitting in that division. The court will not enter the stay or grant the relief unless:

(1) *Notice*: it appears from the petition that reasonable notice, under the circumstances, has been given to all parties in interest of the date, time, and place of the application; or

(2) *Stipulation*: it appears from the petition that there is an agreement by all parties in interest; or

(3) *Exigency*: the court in its discretion shall determine that there are extraordinary circumstances justifying a stay or immediate relief.

**Rule 206.4(c)(3). Admissions.**

All well-pled factual averments in a petition upon which a rule to show cause has been granted, or in preliminary objections endorsed with a notice to plead and properly containing averments to fact, shall be deemed admitted unless an answer specifically denying the same is filed on or before the close of court within twenty days after service of the petition upon the respondent(s), or such shorter time as the court may have allowed, or, in the case of preliminary objections, on the date on which an answer to the preliminary objections is due pursuant to the Pennsylvania Rules of Civil Procedure. The requirements of Pa.R.C.P. No. 1029 shall apply to this provision.

**Rule 206.4(c)(4). When No Answer Is Filed**

If no answer has been timely filed, the petitioning party, not less than five (5) days after the rule return date, may move to have the rule made absolute, granting the prayer of the petition, and the Court may consider such petition as unopposed and grant such motion as of course. The motion shall be accompanied by a proposed order and a certificate of service but no brief shall be required. The provisions of Rule 206.1(c) shall not apply to motions to make a rule absolute filed pursuant to this section.

COMMENT: A party upon whom a petition is served has an obligation to answer the petition if the relief sought is opposed. See comment to Rule 206.1(c) above. See C.C.R.C.P. 200.1 regarding emergency and injunctive matters. See 206.1(d) of this rule for treatment of preliminary objections which raise questions of jurisdiction or venue and any other preliminary objections which deal with facts not otherwise of record; those types of preliminary objections shall be handled under subsection

206.1(b), as though they were petitions, except that such preliminary objections shall not be accompanied by a rule to show cause.

#### **Rule 206.5. When Answer is Filed**

When an answer has been timely filed and the issue raised by the petition, motion or preliminary objection is ripe for consideration, pursuant to the provisions of Pa.R.C.P. No. 206.7, any party may file a praecipe for determination in the form described by C.C.R.C.P. No. 206.6 along with a supporting brief. If a petitioner files a praecipe for determination on petition and answer, all averments of fact responsive to the petition and properly pleaded in the answer shall be deemed admitted. If a respondent orders the matter for argument on petition and answer without having taken depositions or such other discovery as the court may have allowed, then all averments of fact properly pleaded in the petition shall be deemed admitted for the purposes of the rule, unless the petitioner shall have failed to take depositions or such other discovery as the court may have allowed within the time required, in which event the petition shall be decided on petition and answer and all averments of fact responsive to the petition and properly pleaded in the answer, shall be deemed admitted pursuant to Pa.R.C.P. No. 206.7(c). Responsive briefs shall be filed within fifteen (15) days of the filing of the praecipe for determination. The assigned judge may, at his or her discretion, extend the time for filing briefs.

#### **Rule 206.6. Praecipe for Determination**

To have any matter submitted to the Court for a decision, a party shall file with the Prothonotary a Praecipe for Determination. Immediately after filing same with the Prothonotary, each party shall serve upon all other counsel and unrepresented parties a copy of the Praecipe for Determination as well as any other documents filed therewith. The Praecipe for Determination shall be in substantially the following form:

(CAPTION)

PRAECIPE FOR DETERMINATION

TO THE PROTHONOTARY:

Kindly submit the following matter to  
Judge [insert the name of the assigned judge]  
for determination:  
insert specifically the title of petition/motion/  
preliminary objections, etc. to be submitted.]  
(date of filing/service): \_\_\_\_\_.

Attorney's name  
Address  
I. D. Number  
Telephone Number

COMMENT: This praecipe is to be filed with the prothonotary, not the court administrator.

#### **Rule 208. Motions**

##### **Rule 208.2. General**

All motions shall be filed in accordance with C.C. R.C.P. 206.2.

##### **Rule 208.2(c). Applicable Authority**

All motions should include a brief statement of applicable authority.

##### **Rule 208.2(d). Uncontested Motions—Certification**

A motion may be treated as uncontested when the moving party appends to it a certificate that counsel has conferred with all interested parties in respect to the

matter and has been affirmatively advised that there are no objections to the relief sought in the proposed order.

COMMENT: Non-responsiveness on the part of an opponent shall not be equated by the movant to the lack of contest.

##### **Rule 208.2(e). Discovery Motion and Petition Certification**

i. All counsel have an affirmative obligation to confer and discuss discovery matters and make a good faith effort to resolve such differences as may exist

ii. Any motion or petition relating to discovery must be accompanied by a certificate of counsel for the moving party certifying that counsel has conferred with opposing counsel with respect to each matter set forth in the discovery motion or petition in good faith, but has been unable to resolve the issue. The certificate shall set forth the exact time, place and manner (which may be telephonic) of the conference or, in a case in which counsel for the moving party cannot furnish such certificate, counsel shall furnish an alternative certificate stating that opposing counsel has refused to so confer. The alternative certificate shall also set forth the efforts made by counsel for the moving party to obtain compliance by opposing counsel and such other facts and circumstances as exist to justify the absence of the required certificate.

iii. The court at its discretion may strike, dismiss or deny the petition or motion for failure of the moving party to comply with the certification requirements of this rule, or may grant relief based solely upon the unreasonable refusal of opposing counsel to confer despite reasonable and good faith efforts of the moving party to comply with the certification requirements of this rule or may grant relief based solely upon the unreasonable refusal of opposing counsel to confer despite reasonable and good faith efforts of moving counsel to arrange such conference.

##### **Rule 208.3(a). Motions—Titles and Attachments**

(1) Generally, motions may be used to obtain relief upon undisputed facts of record, with several exceptions, one of which shall be that averments by counsel that pleadings, documents or discovery requests have been exchanged or transferred. In the latter event copies of all such documents shall be attached, unless already in the record, in which event they can be incorporated by reference. Every motion shall be signed by its moving counsel or party.

(2) The motion or reply should state in its title exactly what is being sought, by whom and against whom (e.g. rather than merely "motion," it should be designated Defendants' Motion for Sanctions Against Plaintiff or Additional Defendant's Second Motion for Sanctions Against Defendant Smith, etc.).

(3) To promote uniformity of civil practice the following types of discovery matters shall be treated as motions, not as petitions, even though they may contain limited assertions of fact not of record:

motion for sanctions for failure to answer interrogatories;

motion for sanctions to failure to produce documents or things;

motion for sanctions for failure to appear for deposition;

motion to compel mental or physical examination;

motion to compel further answers to interrogatories;

motion to compel further production of documents.

(4) Generally, a supporting brief, in accordance with C.C.R.C.P. 210, and praecipe for determination in the form described in C.C.R.C.P. 206.6 must be filed by the moving party with the motion and proposed order. No brief is necessary for the following motions:

(i) motion for sanctions and/or to compel in discovery matters where the only relief sought is to compel answers to interrogatories, to compel a response to a request for production of documents or things, to compel a party to appear for his or her deposition, physical examination or mental examination, or to permit entry upon land for inspection, where the motion is based upon the failure of the other party or parties to have responded to the discovery or other request and the motion is believed to be uncontested, but if the party from whom discovery, examination or inspection, etc. is sought or any other party to the action has objected to the requested discovery, examination, inspection, etc. and/or the moving party believes the motion to be contested, then briefs, in accordance with C.C.R.C.P. 210, shall be submitted as set forth above;

(ii) any motion supported by a stipulation of counsel.

(5) If the movant has failed to file a praecipe for determination, any non-moving party may file a praecipe for determination to bring the motion before the Court; if the movant has not filed a brief the non-moving party shall not be required to file one, and the court may consider the movant to have abandoned his or her position.

COMMENT: See C.C.R.C.P. 1035.2 (a) and Pa. R.C.P. 1035.1 et seq. with regard to motions for summary judgment.

#### **Rule 208.3(b). Responses**

All other parties shall file their responses, if any, to the motion and their briefs, in accordance with C.C.R.C.P. 210, within twenty (20) days of the filing of the motion, except with respect to motions for summary judgment, to which responses and briefs must be filed within thirty (30) days after service of the motion. The assigned judge may, in his or her discretion, extend the time for filing of briefs or waive the requirement. The court may treat a motion as uncontested if no response is filed. Upon the filing of a praecipe for determination, as described in Rule 206.6, the matter will be referred to the court for disposition.

#### **210. Briefs or Legal Memoranda**

All briefs or legal memoranda shall contain the following matter under the following headings:

1) *History of the Case*: A brief, informal statement of the facts material to the matter under consideration.

2) *Question Presented*: Refer to the motion, petition, or preliminary objection that is before the court for decision.

3) *Legal Argument*: The section must contain citations to the case law, rule or statute relied on.

4) *Conclusion*: Specify the type of relief requested.

#### **Rule 211.1. Oral Argument**

A. Cases in which any party has sought or the court has ordered oral argument shall be scheduled for argument by the court or by the court administrator. Requests for argument before a court en banc shall be presented initially to the assigned judge.

B. The court may at any time schedule oral argument or conduct an evidentiary hearing on any matter pending before it.

C. Any party may request oral argument by filing with the brief a separate "Request for Oral Argument" which shall include the following:

1. The judge to whom the matter is assigned.

2. The specific matter (Petition/Motion/Preliminary Objections, etc.) as to which oral argument is requested.

3. A concise statement setting forth why oral argument is necessary.

4. The date upon which the Praecipe for Determination was filed.

#### **Rule 212.1. Pretrial and Settlement Conference**

A. Prior to the trial of any case (i.e. jury, non-jury, equity and arbitration appeals), the court may conduct a pretrial and settlement conference. The assigned judge may schedule a pretrial and settlement conference at any other time as he or she deems appropriate.

B. No later than five (5) days in advance of a scheduled conference, each party shall file with the prothonotary and immediately serve upon the assigned judge and all other parties a conference memorandum.

COMMENT: These rules do not in any way alter the requirements of Pa.R.C.P. 212.1 et seq.

C. The conference memorandum shall set forth the following:

(1) A brief statement of the nature of the action; plaintiff shall set forth the claim and defendant(s) shall set forth the defenses.

(2) A statement of the salient facts of the case.

(3) A list of all monetary damages claimed, including lost earnings, loss of future earning capacity, medical expenses (itemized), etc. If relief other than monetary damages is sought, information adequate for an order granting the relief sought shall be furnished.

(4) Special comments regarding legal issues or other appropriate matters.

(5) Parties shall attach to the memorandum copies of reports from all experts expected to be called at trial.

(6) A list showing the names and addresses of all witnesses each party intends to call at trial.

(7) A schedule of all exhibits to be offered at trial.

(8) An estimate of the number of days required for trial.

D. Except in non-jury and equity cases, the conference memorandum of each party shall provide the demand, offer and status of negotiations.

E. All counsel shall have immediate access to their respective clients or those with settlement authority for the purpose of resolving the claim. Unless otherwise instructed, counsel shall not bring their respective clients to the pretrial and settlement conference.

COMMENTS: (1) It is expected that this memorandum will not exceed 3 pages, except in unusual cases. (2) Access via telephone to the client or those with settlement authority shall be sufficient for purposes of this rule.

F. If a settlement conference is requested in a non-jury, or equity matter, the case shall be referred to the court administrator for assignment of the settlement conference only to another judge. Once the settlement conference has been concluded, the case will then be returned to the judge originally assigned to the case. All requirements for



the pretrial and settlement conference as set forth above shall apply to such settlement conference, except that the conference memoranda shall be served upon the judge conducting the conference, not the assigned judge.

#### **Rule 216.1. Prior Commitments of Counsel**

No continuance will be granted by reason of the absence of associate counsel or by reason of prior commitments of counsel in any court other than the Supreme, Superior or Commonwealth Courts of Pennsylvania, a federal appellate court, or in other cases in which counsel is actually on trial or is properly attached to any court of record. When it is known that counsel will be so engaged, he or she shall forthwith notify opposing counsel and the court administrator.

#### **Rule 225.1. Jury Trial Summation**

(a) Unless the trial judge shall otherwise grant leave, only one attorney may sum up for any party.

(b) In trials which involve only one plaintiff and one defendant, if evidence has been received from each party, plaintiff's attorney shall first sum up and defendant's attorney shall then follow. Plaintiff's attorney may then speak solely in rebuttal. If no evidence has been received from the defendant, the same order of summation shall apply, except that plaintiff's attorney shall not speak in rebuttal.

(c) In trials which involve a third-party action, if evidence has been received from each party, the plaintiff's attorney shall first sum up as in (b). Defendant's attorney shall next sum up both for defendant, as in (b), and for defendant as third-party plaintiff. The attorney for the third party (i.e., additional) defendant shall next sum up as the nature of his third-party defense may require. The attorney for third-party plaintiff may then reply in rebuttal and thereafter the attorney for the original plaintiff may reply in rebuttal of only the arguments made by the original defendant.

(d) In multi-party actions and in actions which involve third-party actions, if one or more of the parties offers no evidence, the order of summation shall be determined by the trial judge.

(e) In actions involving more than one plaintiff, defendant or third-party defendant, the trial judge shall determine the order of speaking.

#### **Rule 226.1. Trial Memorandum. Proposed Findings of Fact and Conclusions of Law**

(a) Trial Memorandum and Points for Charge. Each party shall file a trial memorandum and, in all jury trials, requested points for charge no later than the commencement of trial. Each requested point for charge shall cite the authority therefor. Additional memoranda and points for charge may be submitted during trial.

(b) Findings of Fact and Conclusions of Law. In all cases tried by a judge sitting without a jury, each party shall file proposed findings of fact and conclusions of law no later than the commencement of trial. Additional proposed findings and conclusions of law may be submitted during trial.

#### **Rule 227.2. Post-Trial Motions**

(a) All post-trial motions must specify the grounds relied upon.

(b) Any request for leave to file additional specific grounds for post trial relief shall be made by motion and proposed order, and the motion shall contain specific reasons in support thereof. The motion shall be filed with

the prothonotary within ten (10) days after verdict and the movant shall file a certification of service of the motion in the form provided by C.C.R.C.P. 206.3.

COMMENT: Nothing in this rule is intended to permit a party to supplement post-trial motions after receipt of the transcript without having timely obtained leave of court.

(c) Copies of post-trial motions must be served upon the trial judge. If notes of testimony are needed the movant must notify the court reporter of the need to transcribe any part or all of the record. Failure to notify the court reporter shall mean that such party does not desire a transcript of the notes of testimony.

COMMENT: It is the responsibility of the party or parties requiring a transcript of the notes of testimony to obtain such transcript in a timely fashion. Counsel and parties are warned that, in light of Pa.R.C.P. No. 227.4(1)(b), the schedule for the filing of briefs cannot be extended.

(d) Thereafter, the court reporter shall prepare a transcript of such notes for each of the parties who have indicated a desire to have them, together with one original for the court. The court's copy shall contain all the notes requested to be transcribed.

COMMENT: See Rules of Judicial Admin. 5000.1 et seq. regarding transcripts and fees.

(e) No continuance of argument properly scheduled will be granted because of a party's failure to observe the requirements of this rule.

(f) No motion for new trial upon the ground of after discovered evidence will be entertained unless it sets forth the reasons for failure to produce the same at the trial and unless based upon affidavits containing the names of the witnesses and the substance of their expected testimony.

(g) Post-trial motions will be brought before the Court by filing a praecipe for determination under C.C.R.C.P. No. 206.6. The praecipe for determination shall be filed at the time of the filing of the post-trial motion. Upon the filing of the praecipe for determination accompanying a post-trial motion, oral argument shall be scheduled forthwith by the Court.

COMMENT: In view of Pa.R.C.P. No. 227.4(1)(b), which permits entry of judgment if an order disposing of all post-trial motions is not entered within one hundred and twenty (120) days after the filing of the first such motion, oral argument will be scheduled for approximately ninety (90) days following the date of the filing of the first such motion.

(h) The following schedule for the filing of briefs shall apply unless otherwise directed by the assigned judge:

(1) No less than three (3) weeks before the day set for oral argument, the moving party (petitioner or movant) shall serve upon all counsel and unrepresented parties a complete copy of the brief; the brief shall be filed with the prothonotary along with a certification that service has been made.

(2) No less than one (1) week before the day set for oral argument, the responding party shall file a brief and certification of service and shall immediately serve a copy on each counsel and unrepresented party.

(3) The Court may, in its discretion, refuse to hear argument upon issues which have not been reasonably discussed in a party's brief, and it may decline to hear

oral argument addressed from any party who has failed to comply with the foregoing provisions of this rule.

(i) Oral argument may be waived by agreement of all parties but, even if oral argument is waived, briefs shall nevertheless be due pursuant to paragraph (h) above, based upon the date originally set for oral argument.

**Rule 229.1. Withdrawal of Post-Trial Motions, Exceptions or Appeal**

Whenever post-trial motions or exceptions are withdrawn or an appeal is terminated by a party, that party shall immediately advise in writing the judge whose decision, order, or adjudication was being challenged.

**Rule 233.1. Notices**

(a) The Chester County Law Reporter shall be the legal periodical for the publication of all notices. One copy of each issue shall be deposited by the publisher in the office of the prothonotary and one in the Law Library of Chester County for public reference.

(b) Except as otherwise provided by Acts of Assembly, rule or special order of court, service by publication shall be made by publication once in the Chester County Law Reporter and in one daily or weekly newspaper of general circulation within the county and in such manner that the person so served shall have at least five (5) days after publication to act thereon.

**Rule 233.3. Interpreters; Costs**

In all proceedings before a judge, district justice or hearing officer where the services of an interpreter are necessary, an official court interpreter shall be used when available. In other instances an interpreter shall be engaged by the parties, subject to the approval thereof by the court or the hearing officer.

COMMENT: At depositions and proceedings other than those listed above, the litigants shall bear the fees and costs of the interpreter.

**Rule 241. Bill of Costs. Counsel Fees**

(a) *Affidavit.* The affidavit of the party or other person to the correctness of the bill of costs and the attendance and materiality of the witnesses shall be annexed and shall be prima facie evidence to the taxing officer.

(b) *Taxation.* The bill of costs shall be taxed, in the first instance, by the prothonotary upon application of a party. The moving party shall "provide the adverse party with a copy of the bill within ten (10) days after filing. Exceptions shall be filed within ten (10) days of the receipt of such copy. A re-taxation shall then be had before the prothonotary upon ten (10) days notice thereof to both parties. The prothonotary shall give written notice of the re-taxation to both parties, from which either party may appeal to the court within five (5) days thereafter, provided that the appellant shall, within three (3) days after the appeal is entered, file a specification of the items to which he objects and the grounds of his objections; otherwise the appeal will be dismissed. No exceptions or appeal shall operate to stay execution or prevent the collection of the debt of costs, but when collected on execution or paid into court, the items to which exceptions have been taken will be retained until the question is decided.

(c) *Counsel Fees.* When counsel fees are sought under the provision of 42 Pa.C.S. § 2503 as part of the taxable costs of a matter, the party seeking them shall do so by filing an appropriate petition within twenty (20) days of

the conclusion of the case in this court. The proceedings shall be conducted under Pa.R.C.P. No. 209 and C.C.R.C.P. 206.1.

**Rule 242. Surety**

(a) No attorney, sheriff's deputy, or other person concerned in the execution of process, shall become surety in any case, except as granted in writing by special leave of the court.

(b) In all cases wherein the court is required to approve individual sureties, the application shall be accompanied by the affidavit of the surety, setting out the extent of his real and personal estates respectively, and the probable value of the same over and above all liens and indebtedness.

(c) Any surety company desiring to qualify as a surety shall file with the clerk of the orphans' court division a certificate of the insurance commissioner, as required by law, accompanied by a financial statement as of December 31 of the last preceding year. Any corporation whose home office is outside of the County of Chester shall also file a stipulation agreeing that service of process, in any proceeding arising out of its acting as surety or fiduciary pursuant to approval under this or preceding rule, may be made upon it by serving. Such process upon the clerk of the orphans' court division of Chester County, and that such service shall be the equivalent of actual service upon such corporation. To continue to offer itself as surety, it shall file annually with the clerk of the orphans' court division on or before the first Monday of June of each year a similar certificate and statement, and failure to do so within such time shall bar it from acting until such certificate and statement shall have been filed. A surety company which shall have complied with the requirements of this rule shall be approved by the clerk of the orphans' court division, unless otherwise provided by law, subject to the right of exceptions and hearing thereon by the court.

**Rule 249.1. Administration Conference of Civil Cases**

A. The court shall conduct one or more administrative conferences in each case in which the judge is requested to do so by any party and may conduct administrative conferences in any matter at any time or times upon the judge's own motion.

B. At the administrative conference the court shall become acquainted with the salient facts and issues of the case, shall determine discovery and pretrial motion schedules and shall set dates for further conferences and trial.

C. No later than five (5) days in advance of the administrative conference, each party shall file with the assigned judge and immediately serve upon all other parties an administrative conference memorandum which shall set forth the following:

(1) A brief statement of the nature of the action; plaintiff shall set forth the claim and defendant(s) shall set forth the defenses.

(2) A statement of the salient facts of the case.

(3) A list of all monetary damages claimed, including lost earnings, loss of future earning capacity, medical expenses (itemized), etc. and a specification of any relief other than monetary damages being sought.

(4) Special comments regarding legal issues or other appropriate matters including specifically setting forth any unique or unusual aspect of the case.

(5) A brief statement of the status of all discovery, including a proposed schedule for the completion of discovery, the status of all outstanding pretrial motions and petitions and any further pretrial motions or petitions contemplated and a statement of any other pretrial matters requiring resolution prior to the case being ready for trial. Each Party shall submit a proposed pretrial order governing all of the matters set forth in this subparagraph.

(6) An estimate of the number of days required for trial.

**Rule 249.2. Matters Inactive for Two Years or More [Deleted]**

COMMENT: See Pa.R.C.P. No. 230.2

**Rule 249.3. Trial Readiness**

(a) A category A matter shall be presumptively deemed ready for trial twelve (12) months from the date of the initiation of the suit, which is the earliest date on which the case may be tried for purposes of Pa.R.C.P. No. 212.1(a). A category C matter (compulsory arbitrations) in which there has been an appeal from the award of arbitrators shall be presumptively deemed ready for trial two (2) months from the date of the filing of the appeal. Such matters shall immediately thereafter be placed on the trial list of the judge to whom the case is assigned, unless prior thereto an order has been entered deferring the placement on the trial list until a later date. Such order may be entered by the court on its own motion or pursuant to the procedures set forth in paragraph (b) below.

(b) To obtain relief from the initial automatic trial listing pursuant to paragraph (a), above and, thereafter, from any deferred trial listing, a party must file a request for an administrative conference to be held in accordance with Rule 249.1. The first request for administrative conference must be filed no later than eleven (11) months after the date of initiation of suit, except in category C matters. In category C matters, the first request for an administrative conference must be filed no later than ten (10) days after the filing of the appeal from the award of arbitrators. All subsequent requests for administrative conferences must be filed not less than thirty (30) days prior to the trial listing date. The request for an administrative conference must specify that deferment of trial listing will be requested at the conference. The request for administrative conference shall be filed of record and a copy thereof served upon counsel of record for each other party to the action, each unrepresented party, if any, the Court Administrator, and the assigned judge.

(c) At any time prior to placement of a case on the trial list pursuant to the procedures set forth above, the court, either on its own motion or upon agreement of the parties or upon application of any party, may determine that any matter is ready for trial, in which event the court shall file a trial readiness order and the court administrator shall then notify all parties that the case has been placed on the trial list.

(d) Category C matters shall be governed by C.C.R.C.P. No. 1301.1 et seq., unless and until an appeal from the award of arbitrators has been filed. Following the filing of such appeal, the rules set forth above shall apply.

**Rule 1003.1. Waiver of Rules. Extension of Time**

A. The time for filing briefs and answers to petitions, motions and preliminary objections may be extended by agreement of the parties and with the approval of the

court, provided written notice of the agreement for extension has been filed with the prothonotary.

B. Written notice under A above shall be substantially in the following form:

[CAPTION]

**AGREEMENT TO EXTEND TIME**

To the Prothonotary:

This is to certify that the time for filing (title of petition, motion or brief) has been extended to (new date for filing) by agreement of all counsel and unrepresented parties.

\_\_\_\_\_  
Attorney's Name

\_\_\_\_\_  
Address

\_\_\_\_\_  
I.D. number

\_\_\_\_\_  
Telephone number

APPROVED:

\_\_\_\_\_  
J.

**Rule 1007.1A. Jury Trial. Number of Jurors. Demand. Waiver**

A demand for jury trial shall be deemed a demand for a trial by a jury of six (6) members unless any party expressly demands a trial by twelve (12) members. Timing of the filing of the demand for jury trial and withdrawal of same shall be as set forth in Pa.R.C.P. No. 1007.1.

**Rule 1012.1. Entry of Appearance; Withdrawal of Appearance**

Every initial pleading, or other initial filing, by a party with the prothonotary shall be accompanied by a praecipe for entry of appearance which shall include the attorney's or unrepresented party's name, complete address, telephone number, and attorney identification number (if applicable). In like manner, when counsel is withdrawing from an action in accord with Pa. R. C. P. No. 1012(b), counsel shall file a praecipe for withdrawal of appearance.

COMMENT: The written entry of appearance will aid in giving proper notice to all counsel of record of orders, hearings and other pending matters.

**Rule 1018.1.A. Notice to Defend - Office to be Contacted**

(a) The office to be contacted for legal help to be included in the form of Notice to Defend required by Pa.R.C.P. 1018.1(b) is:

Lawyer Referral and Information Service  
Chester County Bar Association  
15 West Gay Street  
West Chester, PA 19380  
(610) 429-1500

**Rule 1025.1. Endorsements**

The initial pleading or appearance on behalf of a party represented by a firm or partnership or association of attorneys shall indicate clearly to the prothonotary the name, address, telephone number, and attorney identification number of the particular attorney who is supervising the conduct of the case.

**Rule 1028(c). Preliminary Objections**

(1) Except for preliminary objections subject to subparagraph (2) below, a brief and praecipe for determina-

tion in the form described in C.C.R.C.P. 206.6 must be filed by the objecting party within twenty (20) days of the filing of the preliminary objections. Responsive briefs shall be filed within twenty (20) days of the filing of the praecipe for determination. The assigned judge may, at his or her discretion, extend the time for filing briefs. If the party filing the preliminary objections has failed to file a praecipe for determination within twenty (20) days of the filing of the preliminary objections, any other party may file a praecipe for determination to bring the objections before the court, in which event no brief shall be required to be filed with the praecipe. If the objecting party fails to file a brief as aforesaid, the court may dismiss the preliminary objection as abandoned. If the objecting party does file a brief, all other parties may file briefs within twenty (20) days thereafter.

(2) Where the preliminary objections properly assert facts not otherwise of record and the preliminary objections have been endorsed with a notice to plead, no praecipe for determination nor brief shall be required until the matter is ready to be submitted to the court, either upon the basis of the preliminary objections alone, if no answer has been filed, or upon the basis of the preliminary objections and answers thereto, or after a record has been developed pursuant to Pa.R.C.P. 1028(c)(2). If an answer is filed and any party wishes to develop a record on any disputed issues of material fact, depositions shall be completed within forty-five (45) days of the date of service of the answer to the preliminary objection. The time limit for the taking of the depositions may be shortened or extended by agreement of the parties or by the Court.

#### **Rule 1034(a). Motions for Judgment on the Pleadings**

Motions for judgment on the pleadings shall be scheduled, argued and decided in accordance with C.C.R.C.P. 208.3(a)(4), 208.3(a)(5), 208.3 (b), 210 and 211.1.

NOTE: The aforesaid rules provide as follows:

##### **208.3(a)(4)**

Generally, a supporting brief, in accordance with C.C.R.C.P. 210, and praecipe for determination in the form described in C.C.R.C.P. 206.6 must be filed by the moving party with the motion and proposed order. No brief is necessary for the following motions:

(i) motion for sanctions and/or to compel in discovery matters where the only relief sought is to compel answers to interrogatories, to compel a response to a request for production of documents or things, to compel a party to appear for his or her deposition, physical examination or mental examination, or to permit entry upon land for inspection, where the motion is based upon the failure of the other party or parties to have responded to the discovery or other request and the motion is believed to be uncontested, but if the party from whom discovery, examination or inspection, etc. is sought or any other party to the action has objected to the requested discovery, examination, inspection, etc. and/or the moving party believes the motion to be contested, then briefs, in accordance with C.C.R.C.P. 210, shall be submitted as set forth above;

(ii) any motion supported by a stipulation of counsel.  
208.3(a)(5)

If the movant has failed to file a praecipe for determination, any non-moving party may file a praecipe for determination to bring the motion before the Court; if the movant has not filed a brief the non-moving party shall

not be required to file one, and the court may consider the movant to have abandoned his or her position.

COMMENT: See C.C.R.C.P. 1035.2(a) and Pa. R.C.P. 1035.1 et seq. with regard to motions for summary judgment.

##### **208.3(b)**

All other parties shall file their responses, if any, to the motion and their briefs, in accordance with C.C.R.C.P.210, within twenty (20) days of the filing of the motion, except with respect to motions for summary judgment, to which responses and briefs must be filed within thirty (30) days after service of the motion. The assigned judge may, in his or her discretion, extend the time for filing of briefs or waive the requirement. The court may treat a motion as uncontested if no response is filed. Upon the filing of a praecipe for determination, as described in Rule 206.6, the matter will be referred to the court for disposition.

##### **210**

All briefs or legal memoranda shall contain the following matter under the following headings:

- 1) *History of the Case*: A brief, informal statement of the facts material to the matter under consideration.
- 2) *Question Presented*: Refer to the motion, petition, or preliminary objection that is before the court for decision.
- 3) *Legal Argument*: The section must contain citations to the case law, rule or statute relied on.
- 4) *Conclusion*: Specify the type of relief requested.

##### **211.1**

A. Cases in which any party has sought or the court has ordered oral argument shall be scheduled for argument by the court or by the court administrator. Requests for argument before a court en banc shall be presented initially to the assigned judge.

B. The court may at any time schedule oral argument or conduct an evidentiary hearing on any matter pending before it.

C. Any party may request oral argument by filing with the brief a separate "Request for Oral Argument" which shall include the following:

1. The judge to whom the matter is assigned.
2. The specific matter (Petition/Motion/Preliminary Objections, etc.) as to which oral argument is requested.
3. A concise statement setting forth why oral argument is necessary.
4. The date upon which the Praecipe for Determination was filed.

#### **Rule 1035.2(a) Motion for Summary Judgment—Procedures for Disposition**

Motions for Summary Judgment shall be scheduled, argued and decided as set forth in C.C.R.C.P. 208.3(a)(4), 208.3(a)(5), 208.3(b), 210 and 211.1

NOTE: The aforesaid rules provide as follows:

##### **208.3(a)(4)**

Generally, a supporting brief, in accordance with C.C.R.C.P. 210, and praecipe for determination in the form described in C.C.R.C.P. 206.6 must be filed by the moving party with the motion and proposed order. No brief is necessary for the following motions:

(i) motion for sanctions and/or to compel in discovery matters where the only relief sought is to compel answers

to interrogatories, to compel a response to a request for production of documents or things, to compel a party to appear for his or her deposition, physical examination or mental examination, or to permit entry upon land for inspection, where the motion is based upon the failure of the other party or parties to have responded to the discovery or other request and the motion is believed to be uncontested, but if the party from whom discovery, examination or inspection, etc. is sought or any other party to the action has objected to the requested discovery, examination, inspection, etc. and/or the moving party believes the motion to be contested, then briefs, in accordance with C.C.R.C.P. 210, shall be submitted as set forth above;

(ii) any motion supported by a stipulation of counsel.  
208.3(a)(5)

If the movant has failed to file a praecipe for determination, any non-moving party may file a praecipe for determination to bring the motion before the Court; if the movant has not filed a brief the non-moving party shall not be required to file one, and the court may consider the movant to have abandoned his or her position.

COMMENT: See C.C.R.C.P. 1035.2 (a) and Pa. R.C.P. 1035.1 et seq. with regard to motions for summary judgment.

208.3(b)

All other parties shall file their responses, if any, to the motion and their briefs, in accordance with C.C.R.C.P.210, within twenty (20) days of the filing of the motion, except with respect to motions for summary judgment, to which responses and briefs must be filed within thirty (30) days after service of the motion. The assigned judge may, in his or her discretion, extend the time for filing of briefs or waive the requirement. The court may treat a motion as uncontested if no response is filed. Upon the filing of a praecipe for determination, as described in Rule 206.6, the matter will be referred to the court for disposition.  
210

All briefs or legal memoranda shall contain the following matter under the following headings:

1) *History of the Case*: A brief, informal statement of the facts material to the matter under consideration.

2) *Question Presented*: Refer to the motion, petition, or preliminary objection that is before the court for decision.

3) *Legal Argument*: The section must contain citations to the case law, rule or statute relied on.

4) *Conclusion*: Specify the type of relief requested.

211.1

A. Cases in which any party has sought or the court has ordered oral argument shall be scheduled for argument by the court or by the court administrator. Requests for argument before a court en banc shall be presented initially to the assigned judge.

B. The court may at any time schedule oral argument or conduct an evidentiary hearing on any matter pending before it.

C. Any party may request oral argument by filing with the brief a separate "Request for Oral Argument" which shall include the following:

1. The judge to whom the matter is assigned.

2. The specific matter (Petition/Motion/Preliminary Objections, etc.) as to which oral argument is requested.

3. A concise statement setting forth why oral argument is necessary.

4. The date upon which the Praecipe for Determination was filed.

#### **Rule 1301.1. Cases for Submission to Arbitration**

(a) All civil cases at law which are now or hereafter at issue wherein the amount in controversy in each cause of action, i.e., the amount claimed in each count, stated therein, exclusive of interest and costs, does not exceed fifty thousand (\$50,000.00) dollars, and which do not involve title to real property, shall be submitted to, heard, and decided by a board of arbitrators consisting of three (3) attorneys admitted to practice before the Supreme Court of Pennsylvania and actively engaged in the practice of law primarily in Chester County.

(b) The court administrator may in his or her discretion consolidate cases for hearing when all the cases are subject to the provisions of the arbitration rules and when they involve common questions of fact. The court administrator shall by letter notify all counsel and unrepresented parties of any consolidation.

(c) If the judge who has been assigned a Category A matter shall determine that the case is properly one which should be handled as an arbitration under Category C, the assigned judge shall order the case to be placed in Category C, and the case shall thenceforth be treated as though it had been so classified as an arbitration case in the first instance. The court administrator shall schedule such remanded arbitration cases for hearing as soon as practicable unless otherwise ordered by the assigned judge.

#### **Rule 1302.1. Administration**

(a) Proceedings under the arbitration rules of this court shall be administered by the office of the court administrator of this court.

(b) The court administrator shall have the power to prescribe forms and to interpret these rules, subject to review by the court at the request of a party.

(c) Every attorney admitted to practice before the Supreme Court of Pennsylvania and actively engaged in the practice of law primarily in Chester County shall file with the office of the court administrator appropriate information indicating whether or not he or she is practicing alone, is a member of a firm, or is associated in some way with one or more other lawyers (either in private practice or as an employee of some public office such as the district attorney's office, public defender's office, legal aid, etc.). Any change in his status in this regard shall immediately be reported to the office of the court administrator. Boards of arbitration shall be appointed from the list of members of the bar who have filed such information.

(d) The chair of the board of arbitrators shall be appointed by the court administrator and shall be responsible for the preparation and filing of the board's report and award.

(e) The court administrator shall have the authority to obtain and deliver to the board of arbitrators all papers of record and shall be responsible for the return thereof to the Prothonotary when not in necessary custody of the board. The court administrator shall maintain such records as are necessary for the proper administration of the arbitration system, and shall give the arbitrators such assistance as may be necessary to expedite the arbitration process.

(f) The date, time and place of the arbitration hearing shall be assigned by the Prothonotary at the time a Category C action is commenced. The court administrator shall provide the Prothonotary with the next reasonably available date for an arbitration hearing, and the Prothonotary shall then mark that date upon the cover sheet when a Category C action is commenced. The notice of the date, time and place of arbitration hearing on the cover sheet shall include the following statement:

This matter will be heard by a board of arbitrators at the time, date and place specified but, if one or more of the parties is not present at the hearing, the matter may be heard at the same time and date before a judge of the court without the absent party or parties. There is no right to a trial de novo on appeal from a decision entered by a judge."

COMMENT: It is anticipated that a hearing will be scheduled no less than six (6) months following the initiation of suit. The court administrator will be required to adjust the interval, between filing and hearing dated, depending upon the availability of hearing rooms, the volume of cases to be tried, and the number of panels to be assigned.

(g) Any party may for good cause object to the matter being submitted to arbitration by notifying the court administrator in writing with notice to all other parties. The court administrator shall initially make a determination as to the validity of any such objection. Any party dissatisfied with the determination of the court administrator shall have the right to have the matter determined by the assigned judge.

(h) All hearings shall be held in the Courthouse at West Chester, unless the arbitrators and all parties agree otherwise.

(i) It shall be the professional obligation of all members of the bar to serve on boards of arbitration, unless absent or excused for good cause and compelling reason. If an arbitrator fails to appear, or appears late at the scheduled arbitration hearing without compelling reasons, his name shall be stricken from the arbitration list, and he will be so notified by the court administrator. He may be reinstated by application to the court, upon cause shown.

(j) The president judge may strike from the list of eligible arbitrators the name of any attorney who has consistently demonstrated an inability to serve in a proper manner.

#### **Rule 1302.2. Chair of Arbitration Boards**

(a) Unless otherwise agreed by the parties, the arbitration board shall be chaired by a member of the bar who has:

(1) been admitted to the practice of law for at least ten (10) years;

(2) been the principal attorney in at least ten (10) litigation cases filed in a Court of record; and

(3) participated in at least five (5) trials or evidentiary hearings within the last five (5) years.

(b) A list of available arbitrators who are qualified to serve as chair of arbitration boards shall be maintained by the Court Administrator.

(c) A member of the bar who seeks to serve as chair of arbitration boards shall submit to the Court Administrator a certificate of eligibility on a form prescribed by the Court Administrator. Upon receipt of a fully completed certificate, the Court Administrator shall add the name of

the person submitting the certificate to the list of those eligible to serve as chair of an arbitration board.

#### **Rule 1303.1. Hearings**

(a) The board of arbitrators shall have the powers conferred upon them by law, including, but not limited to the following:

(1) To permit the amendment of any pleading. Except for good cause shown, such an amendment must be filed in writing.

COMMENTS: (1) See Pa.R.C.P. No. 1304 for the power of arbitrators to act when a party fails to appear. (2) See Pa.R.C.P. No. 218 for the power of arbitrators when a party is not ready for trial.

#### **Rule 1303.2. Pre-Arbitration Memorandum**

(a) At least seven (7) days before the date of the arbitration hearing, all parties shall file with the Prothonotary, in triplicate, a memorandum in the form provided and shall immediately serve a copy on each party. This memorandum shall set forth the following:

(1) A brief statement of the salient facts of the claim or defense.

(2) A statement of the legal basis of the claim or defense.

(3) A list of all special damages claimed, such as lost earnings, loss of future earning capacity, medical expense (itemized), property damages.

(4) A list of the names and addresses of all witnesses whom that party intends to call at arbitration.

(5) A list of all exhibits to be offered by that party at arbitration. All exhibits shall be numbered prior to the arbitration.

(6) An estimate of time necessary to present your claim or defense.

(7) Special comments regarding legal issues.

(8) A certification that the attorney has, on behalf of his/her client, made a reasonable effort to stipulate or agree to all undisputed issues of fact or law which would expedite the arbitration of this matter.

(b) It is expected that the memorandum will not exceed two pages, except in unusual cases.

(c) Except in extraordinary circumstances as determined by the arbitrators, a party will not be allowed to call a witness at the arbitration hearing who is not listed in a timely-filed pre-arbitration memorandum.

(d) Except in extraordinary circumstances as determined by the arbitrators, a party will not be allowed to offer an exhibit at the arbitration hearing that is not listed in a timely-filed pre-arbitration memorandum.

#### **Rule 1306.2. Award, Where There Is Comparative Negligence or Apportionment Among Joint Tortfeasors**

Where it is determined by the board of arbitrators that the Comparative Negligence Act of 1976 (42 Pa.C.S. § 7102) applies to a negligence action, the award of the board of arbitrators shall state:

(1) the percentage of the causal negligence attributable to each of the parties;

(2) the amount of damages, if any, sustained by the plaintiff and any counterclaimant without reduction by the percentage of that party's causal negligence, and

(3) the amount determined by the board to be awarded the plaintiff or counterclaimant after reduction of the damages by the proportion or percentage of that party's causal contributory negligence.

COMMENT: A verdict form which will assist the panel of arbitrators in allocating causal negligence and calculating an award of damages under the Comparative Negligence Act shall be available from the court administrator's office.

#### **Rule 1308.1. Compensation of Arbitrators**

The chairman and other arbitrators shall receive compensation paid by the County as determined by the court for each case in which the arbitrator shall have signed a report and award or dissent there from.

#### **Rule 1568.1. Public sale**

Except as otherwise provided by act of assembly or special order of court, notice of the time and place of the sale of a property at public auction by a master in partition shall be given by publication once a week for three successive weeks immediately preceding such sale in the *Chester County Law Reporter*, and in one daily newspaper of general circulation within the county.

#### **Family Court Rules**

#### **C.C.R.C.P. NOS. 1901.2.A to 1940.12.A Inclusive Deliberately Omitted**

#### **Rule 2232.1. Notice of Pendency of Action**

Notice required by Pa.R.C.P. No. 2232(a) shall consist of a copy of the complaint and a statement that the person to whom it is addressed is required to join therein within twenty (20) days after receipt of such notice; or his cause of action will be barred and the action will proceed without him.

Proof of service shall be by affidavit accompanied with a copy of the notice and the return receipt filed with the Prothonotary.

#### **Rule 3123.1.A. Exemption. Sheriff's Appraisement.**

The sheriff shall give all parties at least forty-eight (48) hours' notice of the time and place when he will make an appraisement of the property which the defendant claims the right to retain as the exemption allowed him by law. The parties and their attorneys shall have the right to be present when the appraisement is made.

#### **Rule 4007.1.A. Place of Depositions**

In the absence of an agreement of the parties pursuant to Pa.R.C.P. No. 4002, or an order of the court upon cause shown, depositions in all cases shall be held in Chester County.

#### **Rule 4007.1.B. Problems Arising During Depositions**

In the event that a problem arises during the course of a deposition, which would result in the premature termination of the deposition and the subsequent filing of motions to compel answers to the questions involved, the assigned judge shall rule upon the issues on the day they have arisen. If the assigned judge is not available on that day, the court administrator shall refer the matter to the emergency judge for consideration and disposition that day. At the discretion of the judge, the consultation may be by telephone.

COMMENT: See Rule 206.1 A. (1) for certification required with discovery motions and petitions.

#### **Rule 5000. Rent Escrow Payments In Lieu Of Bond In Landlord Tenant Appeals From District Justice Decisions.**

(a) Where a tenant in possession of residential real property appeals from a judgment for the possession of the real property entered by a district justice as required by Pa.R.C.P.D.J. No. 1008(B) a supersedeas shall operate if such tenant:

(1) at the time of filing the appeal, files with the prothonotary a verified statement of his intentions of depositing monthly rental payments required by the lease which will become due during the pendency of the court of common pleas proceedings listing the amount of rental payments to become due per month and the dates when said payments are due, a copy of which shall be served upon the appellee by certified mail within five (5) days; and

(2) deposits with the prothonotary the rental payments for the current month (if not already paid) and the subsequent rental payments as they become due according to tie said verified statement.

(b) Upon motion and order and certification of two days notice to tenant or his counsel by the landlord, accompanied by a copy of the escrow account from the prothonotary's office, the court may terminate the supersedeas if a monthly rental payment was not deposited in escrow within five (5) days after the date the rental payment became due.,

(c) No withdrawals shall be permitted from any such escrow account except upon court order.

#### **Rule 5001. Writs of Certiorari From Actions Before District Justices**

(a) Within thirty (30) days of filing a praecipe for writ of certiorari under the provisions of Pa.R.C.P.D.J. No. 1009 the appellant shall file a praecipe for determination and a brief in support of issuance of the writ and appellee shall have fifteen (15) days to file a reply brief. The court, in its discretion, may extend the time for filing of briefs.

(b) If appellant fails to file a brief and praecipe for determination within the time set forth in subsection (a), or within the time extended by the court, then appellee may, without filing a brief; file a Praecipe for Determination and the court may consider appellant to have abandoned his position.

COMMENT: See C.C.R.C.P. 206.6 for form of praecipe for determination.

#### **Rule 5002. Zoning and Local Agency Appeals**

(a) This rule shall apply to all zoning and land use appeals filed under and pursuant to the Pennsylvania Municipalities Planning Code and to any appeal from any decision or determination of any political subdivision or municipal or other local authority, or any officer or agency of any such political subdivision, or local authority. All such local bodies are referred to herein as the "Local Agency".

(b) Upon the filing of any appeal requiring the Local Agency to certify and return to the Court the record made before it in the matter under appeal, the Prothonotary or Clerk shall forthwith, as of course, send to the Local Agency whose decision or action has been appealed, by registered or certified mail, a copy of the Notice of Appeal, together with a Writ of Certiorari commanding the said Local Agency, within twenty (20) days after receipt thereof, to certify to the Court its entire record in the matter in which the appeal has been taken, or a true and

complete copy thereof, including any transcript of testimony available to the Local Agency at the time it receives the Writ of Certiorari.

(c) Notice of appeal shall be given as follows:

(i) In the case of Zoning and Land Use Appeals, if the appellant is a person other than the landowner of the land directly involved in the decision or action appealed from, the appellant, within seven (7) days after the appeal is filed, shall serve a true copy of the Notice of Appeal by mailing the said Notice to the landowner or his attorney at his last known address. For identification of such landowner, the appellant may rely upon the record of the Local Agency and, in the event of good faith mistakes as to such identity, may make such service nunc pro tunc by leave of Court.

(ii) In all appeals, within seven (7) days of the filing of an appeal, if the Local Agency is not a party appellant or appellee, the appellant shall notify the Local Agency, in writing, of the date of filing such appeal and shall attach to such notice a copy of the Notice of Appeal, as filed.

(d) The record submitted to the Court by the Local Agency in compliance with the Writ of Certiorari shall include (1) the proof of publication; (2) a complete copy of the ordinance, map and/or regulation under which the determination of the Local Agency was made, certified by counsel for the Local Agency or other Local Agency official to be the ordinance, map or regulation in effect when the decision was rendered or action taken which is the subject of the appeal; (3) the transcript of the proceedings before the Local Agency; and (4) all exhibits. The record shall be accompanied by a document entitled "Return of the Record", which shall list the contents of the record. Within five (5) days of the filing of the record with the Prothonotary, the attorney for the Local Agency or an official thereof shall give written notice to the appellant and intervenor, if any, or their attorneys of record of the date of such filing, and shall serve therewith a true copy of the Return of Record.

(e) Whenever an appeal is taken from a Local Agency decision or determination and the record is returned by the Court to the Local Agency for further proceedings, and a subsequent appeal is taken in the same case, the number of the original appeal shall be set forth in the notice of the subsequent appeal filed with the Prothonotary or Clerk, who shall docket and file the subsequent appeal under the number of the original appeal.

(f) Within thirty-one (31) days of the filing of the returned record, the appellant shall file a supporting Brief and a Praeceptum for Determination. Appellee and any intervenors shall have thirty (30) days from the receipt of the appellant's Brief to file a reply Brief. The assigned Judge, in his discretion, may extend the time for filing of Briefs.

COMMENTS: See C.C.R.C.P. 206.6 for the form of Praeceptum for determination.

(g) If the appellant fails to file his Brief within the time prescribed by these rules, or within the time as extended, the appellee or intervenor may move for dismissal of the matter. Such motion shall be served in accordance with these rules upon the appellant, who may file an Answer thereto, and the motion shall be thereafter determined by the Court as it deems just and proper. If an appellee or intervenor fails to file his brief within the time prescribed by these rules, or within the time as extended, the Court may consider such appellee or intervenor to have abandoned his position, and will proceed to dispose of the appeal on the merits.

### **Rule 5003. Appeals from Real Estate Assessment**

The following rules shall apply to all appeals from a real estate assessment determined by the Board of Assessment Appeals "Board" of Chester County. These rules apply to all appeals taken following their effective date, and may be applied as appropriate to current appeals ninety (90) days after their effective date.

Definitions:

*Board*—the Chester County Board of Assessment Appeals.

*Taxing Authority*—municipalities, such as school districts, boroughs, townships and the County of Chester.

*Party*—appellant, the Board, and any other person or entity entitled to notice to shall enter an appearance.

*Property Owner*—the taxpayer, whether singular or plural, that owns the property which is the subject of an appeal.

*Appraisal*—an opinion of a qualified expert as the value of property.

*Date of Notification*—date which is stamped on the decision of the Board.

*Commercial Property*—any property whose purpose is to generate income for its owner.

#### **Rule 5003(a). Filing Instructions:**

1. An appeal from the decision of the Board shall be filed within thirty (30) days from the date of notification by the Board.

2. Ten (10) days after filing the appeal the appellant shall serve a copy of the appeal on the Board and all affected taxing authorities or property owners by certified mail to the Board, to the property owner at his, her, its, or their registered address as shown on the tax records, and on the taxing districts at their business address.

3. Within twenty (20) days of service of the appeal, the appellant shall file an affidavit of service.

4. For purposes of service or notice, an appellant or party may use the address provided to the Board as part of its proceedings.

5. The Board shall automatically be a party to an appeal unless it specifically declines that status in writing. Any taxing authority or property owner entitled to be notified of an appeal may become a party to the proceeding by filing an entry of appearance within one hundred twenty (120) days of the filing of the appeal. The entry of appearance shall be considered to deny the allegations in the appellant's petition, except for the names of the parties and the location of the taxable property. However, any party may plead additional material by way of answer or new matter, as appropriate, within thirty (30) days of becoming a party.

#### **Rule 5003(b). Contents of Appeal**

1. Names and addresses of the taxpayer and the taxing districts;

2. Identification of the property, including street address and tax parcel number.

3. Reason(s) for the appeal. For the purposes of this section, where a challenge is based on fair market value, it shall be sufficient to state that the assessment pursuant to the applicable State Tax Equalization Board, common level or predetermined ratio, is excessive. Where the challenge is based on uniformity, it shall be sufficient to state lack of uniformity as the basis for the appeal.



Where a challenge is based on class certification for the purposes of a class action suit, the appellant shall state with specificity the alleged error of law or abuse of discretion committed by the Board of Assessment Appeals.

4. Photocopy of the decision of the Board, if any.

#### **Rule 5003(c). Discovery Procedures**

1. The appellant shall provide the Board and the other parties entitled to notice of the appeal with a copy of his, her, its, or their appraisal within sixty (60) days of filing the appeal. The other parties shall then have ninety (90) days from the receipt of the appellant's appraisal to provide the appellant with a counter-appraisal. Any party may designate an appraisal submitted to the Board as its appraisal for the purposes of appeal. Appraisals must certify that the appraiser's fee is not contingent upon the results of the appeal.

2. Any party who fails to provide an appraisal within the time frame provided by this rule or by leave of court or within such time as may be agreed to by the parties will not be allowed to present evidence of valuation at trial. This rule shall not preclude the Board from presenting County records in support of its valuation. Such records shall be admissible in evidence as official records in accordance with the requirements of the Judicial Code, 42 Pa.C.S.A. § 6103. Further, this rule shall not preclude a homeowner from presenting his own opinion as to his property's value.

3. In cases involving commercial properties, the taxpayer shall provide the following to all other parties within thirty (30) days of the filing of the appeal:

- (A) Income and expense statements for three (3) years prior to the appeal year;

- (B) A current rent roll, including a list of tenants, rental amounts, lease periods and a sample lease with any special terms or renewal options;

- (C) The right to inspect the property at a reasonable time with notice.

4. The names of all witnesses to be called at trial by any party, other than rebuttal witnesses later determined, shall be provided to all other parties within one hundred fifty (150) days of the appeal date.

5. Additional discovery shall be by leave of court only.

6. The matter shall be scheduled for trial before the assigned judge after the lapse of one hundred fifty (150) days from the appeal date. Any party may request an administrative conference at any time up to one hundred twenty (120) days after the appeal date.

7. Masters may be appointed in cases involving a voluminous record or particularly complex issues.

8. Time periods may be extended for cause shown.

#### **Rule 5003(d). Class Action Appeal**

In all cases involving an appeal from class action certification, a full record shall be made before the Board of Assessment Appeals.

#### **Rule 5003(e). Discontinuance**

The party filing the appeal may discontinue the appeal prior to the time set for the first exchange of appraisals. Thereafter, the appeal may be discontinued only with the agreement of all parties, or by leave of court.

#### **Rule 5003(f). Tax Exemption Cases**

1. All appeals to court from a determination of the Board of Tax Assessment Appeals involving a claimed

exemption from real estate tax shall be accompanied by the full and complete transcript of the hearing before the Board, together with all documentary evidence entered as part of that record and the Board's Findings of Fact and Conclusions of Law in support of its decision.

2. In any appeal to the Board or to court involving a claimed exemption from real estate taxation, the property owner claiming tax exemption shall be subject to such relevant discovery by written interrogatories, deposition and production of documentary evidence as reasonably bears on the property owner's claim of tax exemption. Discovery shall be requested and completed within one hundred twenty (120) days from the requesting party's receipt of notice of the initial application to the Board. Except in cases where such discovery requests has not been complied with prior to the Board's hearing, no additional discovery shall be permitted on appeal to court from the Board's decision, except by leave of court.

COMMENT: This rule specifically does not require simultaneous exchange of information; instead the entity filing an appeal should bear the initial expense and burden of producing an appraisal. This rule should then conserve resources by giving the respondent the opportunity to accept the appellant's appraisal as satisfactory before ordering his or its own appraisal.

#### **Rule 5004. Appeals filed with the Clerk Of Courts**

When an appeal to the Court of Common Pleas is filed with the clerk of courts, a party must file either a praecipe for determination or, if an evidentiary hearing is required, a praecipe for hearing to move the matter before the court. The appropriate praecipe should be addressed to, and served upon the court administrator.

COMMENT: See C.C.R.C.P. 206.6 regarding praecipe for determination.

#### **Rule 5005. Civil Rules Committee**

A civil procedural rules committee shall be appointed within sixty (60) days of the effective date of these rules to study and make recommendations to the court concerning local procedure in civil matters and the promulgation and amendment of local rules of civil procedure. The committee shall be composed of a judge of this court and members in good standing of the Bar of the Supreme Court of Pennsylvania who maintain principal offices for the practice of law in Chester County, all of whom shall be appointed by the president judge. The chairman of the committee shall be a non-judicial member of the committee and shall be designated by the president judge. The committee shall meet as directed by the president judge, or by the chairman of the committee, but in no event less often than semi-annually.

#### **Rule 5006. Effective Date and Repealer**

These rules shall become effective thirty days after the date of publication of these rules in the *Pennsylvania Bulletin*, pursuant to Pa.R.C.P. No. 239. All previous local rules of civil procedure are hereby repealed as of the effective date of these rules, except the rules of the Family Court and of the Orphans' Court Division of the Court of Common Pleas of Chester County, which shall remain in full force and effect.

[Pa.B. Doc. No. 04-1059. Filed for public inspection June 18, 2004, 9:00 a.m.]

## LEBANON COUNTY

**Rules of Civil Procedure for the Court of Common Pleas****Rule 52-51: Title and Citation of Rules**

All Civil procedural rules adopted by the Court of Common Pleas of Lebanon County shall be known as the Lebanon County Rules of Civil Procedure and shall be cited as "Leb.Co.R.C.P. \_\_\_\_."

**Rule 52-52: Intent of Rules**

These Rules are intended to implement and supplement the Pennsylvania Rules of Civil Procedure, and shall govern Civil practice and procedure in the Court of Common Pleas of Lebanon County.

**Rule 52-76: Definitions**

Unless the context clearly indicates otherwise, the words and phrases used in any Rule promulgated by the Court of Common Pleas of Lebanon County shall be given the same meanings as those words and phrases are given in Pa.R.C.P. 76, except:

(1) "Court" or "The Court" shall mean the Court of Common Pleas of Lebanon County.

(2) "Rule" shall mean any rule of court promulgated by the Court of Common Pleas of Lebanon County.

**Rule 52-107: Publication**

The *Lebanon County Legal Journal* is designated as the legal publication for the Court of Common Pleas of Lebanon County.

**Rule 52-205.2(a): Papers and Documents; Filing**

(A) All papers and documents desired to be made part of the Court record shall be filed in the office of the Prothonotary. Once filed, all record documents shall be in the custody of the Prothonotary, who shall be responsible for their safekeeping.

(B) Two copies of all Briefs and/or Memoranda of Law shall be provided to the Judges' Chambers simultaneously with their filing in the Prothonotary's Office.

(C) Arbitrators, Auditors or other officials appointed by the Court shall have authority to remove documents from the Prothonotary's Office as may be necessary for the purposes of their appointment.

(D) All papers, pleadings, and documents filed with the Court shall be on 8 1/2 by 11 inch paper.

(E) All petitions or motions setting forth allegations of fact shall be accompanied by a verification signed by a person having knowledge of the facts contained therein.

**Rule 52-205.4: Praecept for Disposition**

(A) In order to obtain a decision from the Court on any contested legal issue, a party must file a Praecept for Disposition, substantially in the form set forth in sub-section (b) below. Failure to timely file the Praecept for Disposition may result in denial of relief.

(B) A Praecept for Disposition shall be in substantially the following form:

Plaintiff : IN THE COURT OF COMMON PLEAS  
 : LEBANON COUNTY, PENNSYLVANIA  
 vs. : CIVIL DIVISION  
 :  
 Defendant : NO.

PRAECEPT FOR DISPOSITION

TO THE PROTHONOTARY:

Please transmit the accompanying \_\_\_\_\_  
 (List Motion or Petition)  
 to the Court for disposition pursuant to Leb.R.C.P. 205.5.

Judge Previously Assigned to this matter: \_\_\_\_\_

Oral Argument [is] [is not] requested.

The names and addresses of all opposing counsel/pro se litigants are as follows: \_\_\_\_\_

By:  
 Name  
 I.D. #  
 Address  
 Phone Number  
 Attorney for

(C) Once a Praecept for Disposition has been filed, the Court will establish a schedule for filing of briefs and/or argument and notify all parties of that schedule.

**Rule 52-205.5: Praecept for Hearing**

(A) In order to obtain a hearing before the Court, a party shall file a Praecept for Hearing, substantially in the form set forth in sub-section (B) below. The failure by a moving party to timely request a hearing may result in denial of the relief requested.

(B) A Praecept for Hearing shall be in substantially the following form:

Plaintiff : IN THE COURT OF COMMON PLEAS  
 : LEBANON COUNTY, PENNSYLVANIA  
 vs. : CIVIL DIVISION  
 :  
 Defendant : NO.

PRAECEPT FOR HEARING

TO THE PROTHONOTARY:

Please transmit the \_\_\_\_\_ to the Court  
 (List Motion)  
 for a hearing pursuant to Leb.R.C.P. 205.5.

Length of Anticipated Hearing: \_\_\_\_\_

Judge Previously Assigned to Matter: \_\_\_\_\_

Names and addresses of all opposing counsel or pro se parties: \_\_\_\_\_

By:  
 Name  
 I.D. #  
 Address  
 Phone Number  
 Attorney for

(C) Once a Praecept for Hearing has been filed, the Court will notify all parties of the date and time assigned for that hearing.

**Rule 52-205.6: Service on Opposing Parties**

(A) It shall be the responsibility of a party filing a document to insure that the document is served upon all other parties or their counsel.

(B) Service under this rule may be effectuated by any method permitted by the Pennsylvania Rules of Civil Procedure, including by facsimile transmission or email transmission, to the address set forth on counsel's latest Entry of Appearance. Service upon a pro se litigant shall be effectuated by mail to the last known address of the party.

(C) A Certificate of Service must be filed by the person effecting service setting forth the following:

- (1) the names of all persons served;
- (2) the method of service;
- (3) the date of service;
- (4) the address, fax number or email location to which service was made; and
- (5) the name and signature of the person who personally effectuated service.

(D) Service shall be accomplished by either of the following methods:

(1) By leaving at the Prothonotary's Office a copy of all filed documents and proposed Orders together with stamped envelopes addressed for each opposing counsel and/or pro se litigant(s). The Prothonotary shall use the envelopes provided to serve all filed documents and accompanying Orders of Court by mail. Thereafter, the Prothonotary shall complete and file a Certificate of Service in compliance with sub-section (D). Such certificate shall constitute prima facie proof that service was accomplished; or

(2) By directly serving copies of all filed documents upon all opposing parties or their counsel in accordance with sub-section (B) of this rule. The party serving such documents shall be required to file a Certificate of Service in compliance with sub-section (C) above. Once the court issues any Order or Rule to Show Cause, the Prothonotary shall serve a copy of that document on all parties or their counsel by any method permitted in sub-section (B). Thereafter, the Prothonotary shall file a Certificate of Service in compliance with sub-section (D). Such certificate shall constitute prima facie proof that service was accomplished.

**Rule 52-205.7: Uncontested Matters**

(A) A party seeking relief via a motion or petition shall certify the matter as uncontested if all opposing parties have consented to the requested relief. All uncontested requests for relief must be accompanied by one of the following:

- (1) An agreement signed by all parties to the dispute;
- (2) A stipulation signed by all counsel and/or parties; or
- (3) A verification signed by counsel indicating that counsel has personally communicated with all opposing counsel/parties and has received the concurrence of all opposing counsel/parties with respect to the requested relief.

(B) Any motion certified as uncontested shall be accompanied by a proposed Order incorporating the relief agreed upon by all parties.

**Rule 52-205.8: Motion for Rule Absolute**

When the Court has issued a Rule to Show Cause and no party files a response within the time allotted by the Court, the petition or motion that accompanied the Rule to Show Cause shall be deemed uncontested. The moving party may obtain an Order granting final relief by filing a Motion for Rule Absolute. All Motions for Rule Absolute shall append copies of all Certificates of Service averring that all opposing parties had been served with copies of the original petition and any Rule to Show Cause issued by the Court. A Motion for Rule Absolute must be accompanied by a proposed Order setting forth the relief that was uncontested.

**Rule 52-206.4(C): Petitions**

(A) All petitions must be filed in accordance with Rule 52-205.2.

(B) All petitions must be served upon all opposing parties in accordance with Rule 52-205.6.

(C) All uncontested petitions shall be processed in accordance with Rule 52-205.7 and Rule 52-205.8.

(D) Unless a petition is certified as uncontested, it must be accompanied by an Order or Rule to Show Cause that is substantially in compliance with Pa.R.C.P. 206.5.

(E) Whenever a responding party files an answer to a petition, it shall be deemed a contested matter. Contested matters will be handled in accordance with Pa.R.C.P. 206.7. For all contested matters where no disputed issues of material fact exist, any party may file a Praecipe to certify the matter to Court for disposition pursuant to 52-205.4. For all contested matters in which there are disputed issues of fact, discovery may be conducted by leave of Court pursuant to Pa.R.C.P. 206.7. Following the completion of any permitted discovery, any party may praecipe the Court for a hearing pursuant to Local Rule 52-205.5 or for disposition pursuant to Rule 52-205.4.

**Rule 52-208.2(D): Motions—Concurrence or Non-Concurrence**

Except in emergency circumstances, any party seeking relief from the Court by way of motion shall contact all opposing counsel to seek concurrence with respect to that motion. A statement of concurrence or non-concurrence shall be set forth in all motions. It shall not be necessary for a moving party to seek concurrence from a pro se litigant.

**Rule 52-208.2(E): Discovery Motions**

No party will be permitted to file any motion pertaining to discovery unless that party files a certificate verifying that efforts have been made to resolve the discovery dispute with opposing counsel. Such certificate shall be appended to any discovery motion that is filed.

**Rule 52-208.3(A): Motions**

(A) Except for motions made orally at trial or hearing, all motions must be filed in accordance with Rule 52-205.2.

(B) All motions shall be served upon all parties in accordance with Rule 52-205.6.

(C) All uncontested motions shall be processed in accordance with Rule 52-205.7 and Rule 52-205.8.

(D) Unless a motion is certified as uncontested, it shall be accompanied by an Order or Rule to Show Cause that is substantially in compliance with Pa.R.C.P. 208.4.

**Rule 52-208.3(B): Contested Motions**

When an answer is filed by any party to a motion, that motion shall be considered to be contested. The procedure with respect to contested motions shall be as follows:

(a) For any matter where no disputed issues of material fact exist, any party may file a Praeceptum to certify the matter to Court for disposition pursuant to Rule 52-205.4.

(b) For any contested matter where disputed issues of fact are to be resolved by hearing, any party may file a Praeceptum requesting a hearing pursuant to Rule 52-205.5.

(c) For any matter where disputes of fact are to be resolved by affidavit and/or depositions, said affidavits and/or depositions shall be filed with the Prothonotary's Office within 20 days following the filing of the answer. Thereafter, any party may file a Praeceptum for Disposition pursuant to Rule 52-205.5.

**Rule 52-210: Form of Briefs**

Briefs, as required, shall be in the form prescribed by Pa.R.C.P. No. 210. Content thereof shall be as set forth in Pa.R.A.P. No. 2111.

**Rule 52-211: Oral Argument**

Oral argument may be requested by any party. A party filing a Praeceptum for Disposition under Rule 52-205.5 may include a request for oral argument within the Praeceptum for Disposition. Any other party may request oral argument by filing a Praeceptum within five (5) days following the filing of the Praeceptum for Disposition. If no request for oral argument is submitted, the Court will decide the issue based upon the record and briefs filed by the parties. If a request for oral argument is granted, the Court will notify the parties of the date and time set forth for argument upon notification to the parties of the briefing schedule. Unless otherwise ordered by the Court, oral argument shall be conducted in accordance with the schedule set forth on the Court's annual calendar.

**Rule 52-212: Status Conference**

(A) Subsequent to the passage of one (1) year following the filing of a Complaint, any party may request a status conference. Following a status conference, the Court may enter an order imposing deadlines, scheduling a mediation or establishing such other relief as may facilitate the prompt resolution of the case.

(B) A status conference shall be conducted in the manner proscribed by the presiding jurist.

(C) Any party may request a status conference by filing a praecipe substantially in the form of Paragraph (D) below. It shall be the responsibility of the requesting party to contact opposing counsel prior to the status conference in order to delineate issues to be addressed at the status conference.

(D) A Praeceptum for Status Conference shall be substantially in the following form:

Plaintiff : IN THE COURT OF COMMON PLEAS  
 : LEBANON COUNTY, PENNSYLVANIA  
 vs. : CIVIL DIVISION  
 :  
 Defendant : NO.

PRAECIPE FOR STATUS CONFERENCE  
 TO THE PROTHONOTARY:

Please transmit a request for a status conference to the Court, pursuant to Leb.R.C.P. 212.

(1) Judge Previously Assigned to Matter: \_\_\_\_\_

(2) Plaintiff's Counsel will be participating [in person] [by telephone]. The telephone number at which Plaintiff's counsel can be reached is \_\_\_\_\_.

Defendant's counsel will be participating [in person] [by telephone]. The telephone number at which Defendant's counsel can be reached is \_\_\_\_\_.

(3) [Repeat a statement as set forth in (1) or (2) for all other parties.]

By:  
 Name  
 I.D. #  
 Address  
 Phone Number  
 Attorney for

(E) Following the filing of a Praeceptum for Status Conference, the Court will notify all counsel as to the date and time set for the status conference. Except as may be otherwise ordered by Court, status conferences will take place on dates to be listed on the Court's annual scheduling calendar.

**Rule 52-212.1: Certification for Trial**

(A) Any party desiring to proceed to trial shall file with the Prothonotary a "Certificate of Readiness for Trial" certifying that all discovery has been completed and that all pre-trial motions have been decided. Any party seeking to certify a matter for trial shall first notify all opposing counsel. If there is any disagreement as to readiness for trial, a status conference shall be requested under Rule 52-212.

(B) The party certifying the matter for trial shall serve a copy of the Certificate of Readiness upon all opposing counsel or pro se litigants. If any counsel wishes to object to the certification of the matter for trial, that party shall file a status report within ten (10) days following receipt of the Certificate of Readiness for Trial. The status report shall include the following information:

(1) A statement setting forth the status of the proceeding;

(2) A statement of all reasons why counsel believes the matter is not ready for trial;

(3) A summary of the determination resulting from any prior status conferences conducted pursuant to Rule 52-212.

(C) Following receipt of the Certificate of Readiness for Trial and any status reports, the Court will enter an appropriate order that may include:

(1) An order scheduling a status conference;

(2) An order scheduling a pre-trial conference and setting forth the date on which pre-trial statements are to be filed pursuant to Pa.R.C.P. 212.1.

**Rule 52-212.2: Pre-Trial Statements**

(A) In addition to the information required by Pa.R.C.P. 212.2, the pre-trial statements of counsel shall also include:

(1) A statement of all proposed amendments to the pleadings;

(2) A statement of admissions from the pleadings;

(3) A statement of any special scheduling requests;

(4) A list of all deposition objections that will have to be resolved by the Court prior to trial;

(5) A statement of all witnesses (with addresses) intended to be called at trial;

(6) An itemization of all exhibits intended for utilization at trial;

(7) An estimate of the time necessary for trial;

(8) A statement of the issues to be determined at trial; and

(9) A statement of any additional special requests.

#### **Rule 52-212.3: Pre-Trial Conference**

Except for good cause shown, the attorneys who will try the case shall attend the pre-trial conference. Unexcused failure of trial counsel to appear or to file a pre-trial statement may result in the imposition of costs, counsel fees or other sanctions as determined by the Court.

#### **Rule 52-223.1: Exhibits**

(A) Exhibits admitted at trial

(1) At the conclusion of a trial or hearing, all exhibits larger than 8 1/2 x 11 inches, which are part of the record, shall be reduced to that size, and all tangible objects which are part of the record, shall be photographed in color by the party originally proffering the evidence. The 8 1/2 x 11 inch reductions and color photographs shall be substituted in the record for the original exhibits and tangible objects unless the trial judge, upon motion or sua sponte, or an appellate court, shall direct otherwise. At the conclusion of the trial or hearing, the original exhibit shall be returned for safekeeping to the party who presented it and that party shall maintain custody of the exhibit until conclusion of all appellate proceedings in the case, unless the trial judge, upon motion or sua sponte, shall direct otherwise.

(2) Whenever a videotape deposition of a witness is presented at trial or hearing, the videotape cassette shall be marked as an exhibit as required by Pa.R.C.P. 4017.1. At the conclusion of the trial or hearing, the videotape cassette shall be returned for safekeeping to the party who presented it and that party shall maintain custody of the cassette until conclusion of all appellate proceedings in the case, unless the trial judge, upon motion or sua sponte, shall direct otherwise.

(3) Whenever a videotape deposition of a witness is presented at trial or hearing, it shall be accompanied by a transcript of the deposition as required by Pa.R.C.P. 4017.1(a)(2). The accompanying transcript shall be marked as an exhibit and retained in the record of the proceedings. In the event the record of the trial or hearing is transcribed for appellate or other purposes, the exhibit of the transcript accompanying the deposition shall be considered the official transcript of the testimony of the deponent. It shall not be necessary for the trial court reporter to also transcribe the audio portion of the videotape deposition which was presented at trial or hearing, so long as the record clearly reflects which part of the audio portion of the videotape deposition was offered into evidence and admitted.

(B) Disposition of exhibits after trial:

(1) After trial, exhibits admitted into evidence shall be retained by the Court until it is determined whether an appeal has been taken from a final judgment. If an appeal has been taken, the exhibits shall be retained until disposition of the appeal.

(2) Within sixty (60) days of the final disposition of all appeals or the date when no further appeal may be taken under the Pennsylvania Rules of Civil Procedure, the

party who offered the exhibits may reclaim them from the Court. Any exhibits not so reclaimed may be destroyed or otherwise disposed of by the Court.

(3) Notwithstanding the above, any person who has a possessory or legal interest in any exhibit which has been introduced into evidence may file a claim for such exhibit within thirty (30) days after trial. The presiding judge shall determine the validity of such claim and determine the manner and timing of disposition.

#### **Rule 52-223.3: Contact with Jurors**

No attorney or party may initiate any contact with any member of the jury panel either before, during or after a jury trial unless specifically authorized by the Court.

#### **Rule 52-430: Service by Publication**

Service by publication, when appropriate, shall be made by publishing the appropriate notice one (1) time in the Lebanon County Legal Journal and one (1) time in a newspaper of general circulation in Lebanon County. The address on the notice required by Pa.R.C.P. 430 shall be the same office designated by the Court in Leb.R.C.P. 1018.

#### **Rule 52-1012: Entry of Appearance**

Upon the filing of the initial document on behalf of a party in any proceeding, the attorney filing the same shall simultaneously file his/her written appearance in the manner required by Pa.R.C.P. 1012 with such additional information as may be required by the Prothonotary. Counsel who have the ability to receive information by email and/or facsimile number shall also include that information within their Entry of Appearance. An amended Entry of Appearance shall be filed should the address or other contact information of counsel change.

#### **Rule 52-1018.1: Address in Notice to Defend**

The address to be included in the Notice to Defend required by Pa.R.C.P. 1018.1 shall be as follows:

Mid-Penn Legal Services  
513 Chestnut Street  
Lebanon, PA 17042  
Phone: (717) 274-2834

#### **Rule 52-1028(c): Preliminary Objections**

(A) Preliminary Objections must be filed in accordance with Rule 52-205.2

(B) All Preliminary Objections must be accompanied by a Brief In Support Thereof unless factual issues are raised, in which case procedures set forth in (D) shall be followed. Failure by a party to file a brief may result in dismissal of the Preliminary Objections.

(C) Within twenty (20) days following service of the Preliminary Objections, the adverse parties or their counsel shall file an amended pleading or a responsive brief with the Prothonotary.

(D) The following rules shall apply to Preliminary Objections raising factual issues:

(1) All Preliminary Objections raising factual issues and any answers thereto must be verified by an individual having knowledge as to the facts set forth therein.

(2) All Preliminary Objections containing factual averments must be accompanied with a Notice to Plead pursuant to Pa.R.C.P. 1361.

(3) Within thirty (30) days following the filing of an answer that raises a factual dispute, the party filing the Preliminary Objection may supplement the record with

necessary affidavits or depositions, or praecipe the Court for a hearing pursuant to Rule 52-205.5. If an extension of this time is needed, it must be sought by Motion to the Court.

(4) Within fourteen (14) days following the establishment of a record by way of affidavit, deposition or hearing, the moving party shall file a brief. The opposing party shall file a brief within fourteen (14) days thereafter.

(5) All documents and briefs set forth within the Rule are to be filed in accordance with Rule 52-205.2 and are to be served in accordance with Rule 52-205.6.

(6) Within seven (7) days following the filing of the last brief, the party filing the Preliminary Objections shall praecipe those objections to the Court for disposition pursuant to Rule 52-205.5.

#### **Rule 52-1301: Compulsory Arbitration**

All civil cases seeking money damages as relief, except cases involving title to real estate, where the amount of relief sought (exclusive of interest and costs) is the statutory limit authorized by § 7361 of the Judicial Code (42 Pa.C.S.A. § 101 et seq.) or less, shall be submitted to arbitration for consideration and award by a Board of Arbitrators. No case shall be submitted for arbitration where an inconsistent procedure is prescribed by statute or rule of court. In addition, any other case, whether or not at issue and without regard to the amount in controversy, may be referred to a Board of Arbitrators by agreement of all parties.

#### **Rule 52-1302: Arbitrators**

(A) A Board of Arbitrators shall be appointed on the praecipe of any party.

(B) A list of available arbitrators shall be maintained by the Court, consisting of members of the Bar actively engaged in the practice of law in Lebanon County.

(C) The Court shall appoint from the aforesaid list three (3) members to each board of arbitrators, at least one of whom shall have been admitted to practice before the Supreme Court of Pennsylvania for more than five years prior to his or her own appointment. The Chairman of the board shall be that attorney appointed with the longest period of practice in Lebanon County.

(D) Compensation for arbitrators shall be set by Administrative Order of the Court as follows:

(1) Each member of the Board of Arbitrators who has signed the report or filed a minority report;

(2) Additional compensation for the Chairman of the Board of Arbitrators;

(3) Additional compensation in the event of the filing of a counterclaim filed and heard by the arbitrators;

(4) In matters requiring hearings of unusual duration or involving questions of unusual complexity, the Court, on motion of the members of the board, may allow additional compensation. Such motion shall be filed and ruled on prior to the filing of the report of arbitrators.

#### **Rule 52-1303: Hearing and Notice**

(A) The chairman of the Board of Arbitrators shall fix the time and place for a hearing and shall give at least thirty (30) days written notice to all parties, their counsel and the other arbitrators;

(B) The hearing shall be held within ninety (90) days after appointment of the board, unless extended by a written agreement of all parties or their counsel, or by Order of Court. The board shall file its report and award within twenty (20) days after the conclusion of the hearing.

#### **Rule 52-1034(a): Motion for Judgment on the Pleadings**

The procedure for any Motion for Judgment on the Pleadings shall be governed by Rule 52-208.2(D) and Rule 52-208.3(A).

#### **Rule 52-1035.2(a): Motions for Summary Judgment**

The procedure for Motions for Summary Judgment shall be governed by Rule 52-208.2(D) and Rule 52-208.3(A).

#### **Rule 52-4007.1: Depositions**

Unless otherwise ordered by the Court or agreed to by all parties, all depositions by oral examinations of fact witnesses shall be conducted within Lebanon County.

Rules Numbered 1 through 40 of the Rules of the Court of Common Pleas of Lebanon County Civil Division are specifically repealed as of July 26, 2004. These rules shall be effective as of July 26, 2004.

ROBERT J. EBY,  
*President Judge*

[Pa.B. Doc. No. 04-1060. Filed for public inspection June 18, 2004, 9:00 a.m.]

# RULES AND REGULATIONS

## Title 25—ENVIRONMENTAL PROTECTION

### ENVIRONMENTAL QUALITY BOARD [25 PA. CODE CH. 109]

#### Long Term 1 Enhanced Surface Water Treatment Rule

The Environmental Quality Board (Board) amends Chapter 109 (relating to safe drinking water). The final-form rulemaking pertains to public drinking water systems serving less than 10,000 people that use either surface water sources or groundwater sources under the direct influence of surface water (GUDI). The Federal Long Term 1 Enhanced Surface Water Treatment Rule (LT1ESWTR) will improve the control of microbial pathogens in drinking water, including the protozoan *Cryptosporidium*. Key provisions include: *Cryptosporidium* removal requirements for systems that filter; strengthened combined filter effluent turbidity performance standards; requirements for individual filter turbidity monitoring for plants using conventional or direct filtration; and a provision to ensure that microbial protection is not compromised as facility operators take the necessary steps to comply with new disinfection byproduct standards. The implementation of the LT1ESWTR will significantly reduce the level of *Cryptosporidium* in finished drinking water supplies through improvements in filtration. In addition, the final-form rulemaking is expected to increase the level of protection from other disease-causing organisms like *Giardia lamblia* and waterborne protozoa, bacteria or viruses.

The LT1ESWTR was promulgated on January 14, 2002, and public water systems must comply with the new requirements starting in January 2005. The Commonwealth must adopt regulations implementing the LT1ESWTR by January 14, 2004. Failure to do so, and without an Environmental Protection Agency (EPA) granted extension, may result in the Commonwealth losing its primary enforcement responsibility. The Department of Environmental Protection (Department) requested an extension from the EPA until December 31, 2004, to incorporate the provisions of the LT1ESWTR into Chapter 109.

This order was adopted by the Board at its meeting on February 17, 2004.

#### A. Effective Date

The final-form rulemaking will go into effect upon publication in the *Pennsylvania Bulletin*.

#### B. Contact Persons

For further information, contact Jeffrey A. Gordon, Chief, Division of Drinking Water Management, P. O. Box 8467, Rachel Carson State Office Building, Harrisburg, PA 17105-8467, (717) 772-4018; or Marylou Barton, Assistant Counsel, Bureau of Regulatory Counsel, P. O. Box 8464, Rachel Carson State Office Building, Harrisburg, PA 17105-8464, (717) 787-7060.

Persons with a disability may use the AT&T Relay Service, (800) 654-5984 (TDD users) or (800) 654-5988 (voice users). This final-form rulemaking is available on the Department's website: [www.dep.state.pa.us](http://www.dep.state.pa.us).

#### C. Statutory Authority

The final-form rulemaking is being made under the authority of section 4 of the Pennsylvania Safe Drinking Water Act (35 P. S. § 721.4), which grants the Board the authority to adopt rules and regulations governing the provision of drinking water to the public, and sections 1917-A and 1920-A of The Administrative Code of 1929 (71 P. S. §§ 510-7 and 510-20).

#### D. Background and Purpose

The EPA promulgated the Federal Interim Enhanced Surface Water Treatment Rule (IESWTR) on December 16, 1998, to control *Cryptosporidium* in public drinking water systems using surface water sources and serving 10,000 or more people. The Board amended Chapter 109 to include the EPA's IESWTR at the Board's April 17, 2001, meeting. The EPA promulgated the LT1ESWTR on January 14, 2002, which extends most of the IESWTR's requirements to public drinking water systems using surface water sources and serving less than 10,000 people.

Briefly, the main provisions of the LT1ESWTR include: 2-log (99%) *Cryptosporidium* removal; strengthened combined filter effluent turbidity performance standards; requirements for individual filter turbidity monitoring for plants using conventional or direct filtration; and a provision on applicability monitoring, profiling and benchmarking to insure that microbial protection is not compromised as facility operators take the necessary steps to comply with new disinfection byproduct standards.

Other Federal rules promulgated in tandem with the LT1ESWTR—or within the next 2 years as a follow-up to the LT1ESWTR—are the Long Term 2 Enhanced Surface Water Treatment Rule (Long Term 2), Stage 2 Disinfectants and Disinfection Byproducts Rule and the Filter Backwash Recycling Rule. Long Term 2 will apply to all public water systems using surface water or GUDI sources. GUDI is any water beneath the surface of the ground with the presence of insects or other microorganisms, algae, organic debris or large diameter pathogens such as *Giardia lamblia* and *Cryptosporidium*, or significant and relatively rapid shifts in water characteristics such as turbidity, temperature, conductivity or pH which closely correlate to climatological or surface water conditions. The Filter Backwash Recycling Rule applies to this same group, but only if they use conventional or direct filtration technologies. Through a staged approach, the Federal rules will continue to improve microbial protection while reducing health risks associated with disinfection byproducts.

*Cryptosporidium* is a common protozoan in the environment. Sources of *Cryptosporidium* oocysts include agricultural runoff and wastewater discharges. If a water system's treatment processes do not operate efficiently, oocysts may enter finished water at levels that pose health risks. Unlike other pathogens (disease-causing organisms) such as viruses and bacteria, *Cryptosporidium* oocysts are resistant to inactivation using standard disinfection practices. Until effective and practical disinfection methods are available, the successful control of *Cryptosporidium* is dependent on physical removal processes.

In humans, *Cryptosporidium* may cause a severe gastrointestinal infection, termed cryptosporidiosis, which

can last several weeks. Cryptosporidiosis is a common protozoal infection that usually causes 7 to 14 days of diarrhea, a low-grade fever, nausea and abdominal cramps in individuals with healthy immune systems. There is currently no therapeutic cure for cryptosporidiosis, but the disease is self-limiting in healthy individuals. It does, however, pose serious health and mortality risks for sensitive subpopulations including children, the elderly, pregnant women, organ transplant recipients and persons with weakened immune systems, almost 20% of the population in the United States.

In 1993, *Cryptosporidium* caused over 400,000 people in Milwaukee to experience serious intestinal illness. More than 4,000 people were hospitalized and at least 50 deaths were attributed to the *Cryptosporidium* outbreak. Between 1984 and 1994, 6 of the 10 documented waterborne outbreaks of cryptosporidiosis occurred in systems serving fewer than 10,000 people. These outbreaks have widespread health implications and cost families, businesses and local/state governments millions of dollars.

This Commonwealth's 340 filter plants, and the regulations that govern them, provide important health protection for over 8 million residents in this Commonwealth and thousands of out-of-State visitors who receive some or all of their drinking water from filtered surface water suppliers. It is, therefore, in the best interest of this Commonwealth's public health protection and economic development goals to incorporate the LT1ESWTR into Chapter 109.

*"More Stringent Proposals" Presented to Advisory Committees*

In developing the proposed rulemaking, the Department identified two situations in which it wanted to establish requirements that were more stringent than the applicable Federal requirements. These two provisions are already in effect for the larger water systems, which must meet similar existing regulations. The Department presented these two more stringent proposals to the Water Resources Advisory Committee (WRAC) and the Technical Assistance Center for Small Water Systems (TAC) in a document called "Long Term 1 Enhanced Surface Water Treatment Rule—More Stringent Proposals." These issues, and the WRAC's and TAC's responses, are as follows:

(1) Contained in 40 CFR 141.560 (relating to Is my system subject to individual filter turbidity requirements?) is a requirement for systems using conventional filtration or direct filtration to continuously monitor the turbidity for each individual filter at the water system. In 40 CFR 141.562 (relating to My system only has two or fewer filters is there any special provision regarding individual filter turbidity monitoring?), any of these systems with two or fewer filters may conduct continuous monitoring of the combined filter effluent turbidity instead of individual filter effluent turbidity monitoring. The Department proposes to require roughly 75 systems affected by 40 CFR 141.560 and 141.562 to monitor each filter even if their filtration plants have two or fewer filters. This proposed provision will be part of § 109.301(1)(iv) (relating to general monitoring requirements) and will allow water system operators to detect a poorly performing filter and thus prevent a waterborne disease outbreak. The majority of the 75 systems will incur no additional cost related to this provision, but a few could incur an additional cost of under \$4,000 for equipment to continuously monitor turbidity.

(2) Suppliers using conventional filtration or direct filtration are required under 40 CFR 141.563 (relating to What follow-up action is my system required to take based on continuous turbidity monitoring?) to report to the State when individual filter turbidities exceed 1.0 or 2.0 nephelometric turbidity units (NTU) and then undertake specific follow-up actions. This provision does not apply when individual filter turbidities exceed 0.5 NTU. The Department proposes to require all suppliers affected by 40 CFR 141.563 to similarly notify the Department if an individual filter exceeds 0.5 NTU. This proposed provision is part of § 109.301(1)(iv) and § 109.701(e)(2)(ii) (relating to reporting and recordkeeping). Research has shown that when filter effluent turbidity ranges between 0.1 NTU and 0.3 NTU, *Cryptosporidium* presence was as much as 90% greater than when filter effluent turbidity was 0.1 NTU or less. Similarly, there is a significant difference between 0.5 NTU and 1.0 NTU with regards to the level of pathogens that may be passing through the filter. No additional cost is incurred by including the 0.5 NTU trigger.

The Department presented briefings on the draft proposed rulemaking, which included the two more stringent proposals previously discussed, to the WRAC and the TAC at their meetings on November 13, 2002, and November 14, 2002, respectively. Following the public comment period on the proposed rulemaking, a briefing occurred at the September 10, 2003, WRAC meeting. Additionally, presentation materials, a copy of the July 26, 2003, proposed rulemaking and a draft comment and response document were distributed to all TAC members by e-mail. During all of these communications, neither the WRAC nor the TAC expressed disagreement with the issues or the rationale for the Department's proposals.

The proposed LT1ESWTR provisions were presented at the May 21, 2003, Board meeting, and the Board adopted the proposal. The LT1ESWTR was published at 33 Pa.B. 3609 (July 26, 2003) with a 30-day public comment period. The comment period concluded on August 25, 2003. No public meetings were held.

*E. Summary of Comments and Responses on the Proposed Rulemaking and Changes to the Proposed Rulemaking*

The EPA Region 3 and the Independent Regulatory Review Commission (IRRC) submitted comments to the Board on the proposed rulemaking.

*§ 109.204. Disinfection profiling and benchmarking.*

Although a formal comment on § 109.204 was not received, the Board amended subsection (c) to clarify that small water suppliers also need to submit the "benchmark" to the Department. Like the large water suppliers, the "benchmark" is one of the data points already contained in the disinfection profiling information. Adding the term to this section clarifies that suppliers must identify the benchmark when they submit the profiling information, thus resulting in no additional burden for the suppliers serving less than 10,000 people.

*§ 109.301. General monitoring requirements.*

The EPA requested the addition of the phrase "before a violation is incurred" to § 109.301(1)(iv)(C) to make the Commonwealth's regulations consistent with 40 CFR 141.561 (relating to What happens if my system's turbidity monitoring equipment fails?). IRRC requested further clarity in this section for provisions affecting water suppliers serving 10,000 or more persons. IRRC indicated that because it is unclear whether the phrase "before a violation is incurred" applies to large water suppliers, the



Board should consider placing the separate and distinct requirement for suppliers serving fewer than 10,000 persons into new clause (D).

In response to these comments, separate provisions for large and small water suppliers have been added as clauses (C) and (D) and the phrase "before a violation is incurred" has been added to both clauses.

*§ 109.407. General public notification requirements.*

*§ 109.409. Tier 2 public notice—form, manner and frequency of notice.*

The EPA suggested adding a reference to Subchapter G (relating to system management responsibilities) in §§ 109.407(a)(2) and 109.409(a)(1) to make the Commonwealth's regulations consistent with 40 CFR Part 141, Subpart Q, Appendix A (relating to NPDWR violating and other situations requiring public notice), which requires public notification for failure to conduct follow-up activities under 40 CFR 141.563.

The Board has amended these sections accordingly.

*§ 109.714. Filter profile, filter self-assessment and comprehensive performance evaluations.*

The EPA requested the addition of a provision in § 109.714(2) that if a filter self-assessment is required, the public water system must report the date that triggered the self-assessment and the date that it was completed. The EPA also requested adding a provision in § 109.714(3)(iv) that if a comprehensive performance evaluation (CPE) is required, the public water system must report that the CPE is required and indicate the date that it was triggered.

The Board has added the suggested language in both paragraphs of § 109.714 for consistency with the Federal requirements.

#### *F. Benefits, Costs and Compliance*

##### *Benefits*

About 537,000 residents in this Commonwealth who receive drinking water from the 200 affected filter plants will benefit from the final-form rulemaking. The implementation of the final-form rulemaking will significantly reduce the level of Cryptosporidium in finished drinking water supplies through improvements in filtration. The EPA has estimated that the National benefits of this rule range from \$18.9 to \$90.9 million per year (in 1999 dollars). This estimate is based on the value of an avoided case of cryptosporidiosis, which ranges from \$796 to \$1,411 per person. Through improved filtration performance, the rule is estimated to reduce the mean annual number of waterborne cryptosporidiosis in the Nation by 12,000 to 41,000 cases per year assuming individuals consume 1.2 liters of drinking water per day. In addition, the filtration provisions of the rule are expected to increase the level of protection from other pathogens like *Giardia lamblia* and waterborne bacterial or viral pathogens.

##### *Compliance Costs*

In this Commonwealth, about 537,000 residents and thousands of out-of-State visitors who receive their drinking water from the 200 affected filter plants will benefit from improved health protection under the final-form rulemaking. These public drinking water systems serve less than 10,000 people and use surface water or GUDI sources. Traditionally, these smaller systems have required relatively more technical, financial and managerial assistance to implement new regulations. In the future,

an additional 63 systems (serving 57,000 people) might be affected that presently use GUDI sources but are not currently filtered.

The turbidity provisions, which include treatment changes, monitoring and reporting requirements, account for the largest portion of the total rule costs. In projecting costs, the EPA estimates that Nationally the rule's turbidity provisions will cause 2,207 systems to modify their treatment, 2,327 will install turbidimeters and 5,817 will incur monitoring costs. Some systems might seek less costly alternatives, such as connecting into a larger regional water system. The EPA estimates that the annualized, Nationwide cost of the final rule will range from \$39.5 (at a 3% discount rate) to \$44.8 million (at a 7% discount rate). Approximately 84% (\$33.1 to \$38.2 million at the 3% and 7% discount rates, respectively) of the rule's total annual costs are imposed on drinking water utilities while states incur the remaining 16% (\$6.4 to \$6.6 million) of the annual costs. Total capital costs for the LT1ESWTR (nonannualized) is \$173.6 million across the country. Costs are based on 1999 dollars.

The EPA's National estimates showed that of the approximately 11,000 small entities potentially affected by the LT1ESWTR, over 5,000 are expected to incur average annualized costs of less than \$70 (0.003% of average annual revenue) while slightly more than 3,000 are expected to incur average annualized costs of less than \$850 (0.03% of average annual revenue). Of the remaining systems, approximately 500 systems are expected to incur average annualized costs of approximately \$2,500 (0.1% of average annual revenue) and approximately 2,000 systems are expected to incur average annualized costs of approximately \$13,000 (0.6% of average annual revenue). Less than 100 systems are expected to incur average annualized costs of approximately \$15,700 (0.7% of average annual revenue).

Under the LT1ESWTR amendments, customers of small public water systems may face increased costs in their drinking water bills. The increase will be limited because most surface water systems in this Commonwealth already meet the higher turbidity standards. The actual increase in water rates will depend upon a number of factors, including population served and the filtration technology in use. At the National level, the EPA estimates the mean annual cost per household is \$6.24 and the cost per household is less than \$15 for 90% of 6.3 million households potentially affected by the LT1ESWTR. Of the remaining households, 9% will experience a range of annual costs from \$15 to \$120 (\$10 per month), while only 1% of households are estimated to experience annual costs exceeding \$120.

##### *Compliance Assistance Plan*

The Department's Safe Drinking Water Program works with the Pennsylvania Infrastructure Investment Authority to offer financial assistance to eligible public water systems. This assistance is in the form of a low-interest loan, with some augmenting grant funds for hardship cases. Eligibility is based upon factors such as public health impact, compliance necessity and project/operational affordability.

In addition, the Department has instituted a number of assistance programs, including the highly successful and Nationally-recognized Filter Plant Performance Evaluation Program. More recently, the Department contracted with the Pennsylvania Section American Water Works Association under the Partnership for Safe Water Program (Partnership). The Partnership promotes and sup-

ports filtered surface water suppliers who are committed to going beyond compliance. The Safe Drinking Water Program has also established a network of regional and central office training staff that is responsive to identifiable training needs. The target audience in need of training may be either program staff or the regulated community. As a result of the Department's advanced technical assistance programs, this Commonwealth's public water suppliers are well positioned to manage the risk and meet the more rigorous public health protection measures included in the LT1ESWTR.

#### Paperwork Requirements

The final-form rulemaking will require public water systems to monitor and report individual filter turbidity. Modifying the existing data reporting forms will easily facilitate this additional monitoring and reporting. In effect, little additional paperwork will be necessary.

#### G. Sunset Review

The final-form rulemaking will be reviewed in accordance with the sunset review schedule published by the Department to determine whether the regulations effectively fulfill the goals for which they were intended.

#### H. Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on July 15, 2003, the Department submitted a copy of the notice of proposed rulemaking, published at 33 Pa.B. 3609, to IRRC and the Chairpersons of the House and Senate Environmental Resources and Energy Committees for review and comment.

Under section 5(c) of the Regulatory Review Act, IRRC and the Committees were provided with copies of the comments received during the public comment period, as well as other documents when requested. In preparing the final-form rulemaking, the Department has considered all comments from IRRC, the House and Senate Committees and the public.

Under section 5.1(j.2) of the Regulatory Review Act (71 P.S. § 745.5a(j.2)), on April 28, 2004, the final-form rulemaking was deemed approved by the House and Senate Committees. Under section 5.1(e) of the Regulatory Review Act, IRRC met on April 29, 2004, and approved the final-form rulemaking.

#### I. Findings

The Board finds that:

(1) Public notice of proposed rulemaking was given under sections 201 and 202 of the act of July 31, 1968 (P.L. 769, No. 240) (45 P.S. §§ 1201 and 1202) and regulations promulgated thereunder, 1 Pa. Code §§ 7.1 and 7.2.

(2) A public comment period was provided as required by law, and all comments were considered.

(3) The final-form rulemaking does not enlarge the purpose of the proposed rulemaking published at 33 Pa.B. 3609.

(4) The final-form rulemaking is necessary and appropriate for administration and enforcement of the authorizing acts identified in Section C of this order.

#### J. Order

The Board, acting under the authorizing statutes, orders that:

(a) The regulations of the Department, 25 Pa. Code Chapter 109, are amended by amending §§ 109.202, 109.204, 109.301, 109.407, 109.409, 109.701 and 109.714

to read as set forth in Annex A, with ellipses referring to the existing text of the regulations.

(*Editor's Note:* The amendments to §§ 109.407 and 109.409 were not included in the proposed rulemaking at 33 Pa.B. 3609.)

(b) The Chairperson of the Board shall submit this order and Annex A to the Office of General Counsel and the Office of Attorney General for review and approval as to legality and form, as required by law.

(c) The Chairperson of the Board shall submit this order and Annex A to IRRC and the Senate and House Environmental Resources and Energy Committees as required by the Regulatory Review Act.

(d) The Chairperson of the Board shall certify this order and Annex A and deposit them with the Legislative Reference Bureau, as required by law.

(e) This order shall take effect immediately upon publication.

KATHLEEN A. MCGINTY,  
Chairperson

(*Editor's Note:* For the text of the order of the Independent Regulatory Review Commission, relating to this document, see 34 Pa.B. 2649 (May 15, 2004).)

#### Fiscal Note: 7-384. (1) General Fund;

	<i>Environmental Protection Operations</i>	<i>Environmental Program Management</i>
(2) Implementing Year 2003-04 is	\$0	\$0
(3) 1st Succeeding Year 2004-05 is	\$98,482	\$21,618
2nd Succeeding Year 2005-06 is	\$98,482	\$21,618
3rd Succeeding Year 2006-07 is	\$98,482	\$21,618
4th Succeeding Year 2007-08 is	\$98,482	\$21,618
5th Succeeding Year 2008-09 is	\$98,482	\$21,618

	<i>Environmental Protection Operations</i>	<i>Environmental Program Management</i>
(4) 2002-03 Program—	\$75,559,000	\$43,780,000
2001-02 Program—	\$75,074,000	\$43,354,000
2000-01 Program—	\$76,108,000	\$41,471,000

(8) recommends adoption.

#### Annex A

### TITLE 25. ENVIRONMENTAL PROTECTION

#### PART I. DEPARTMENT OF ENVIRONMENTAL PROTECTION

##### Subpart C. PROTECTION OF NATURAL RESOURCES

#### ARTICLE II. WATER RESOURCES

##### CHAPTER 109. SAFE DRINKING WATER

##### Subchapter B. MCLs, MRDLs OR TREATMENT TECHNIQUE REQUIREMENTS

#### § 109.202. State MCLs, MRDLs and treatment technique requirements.

\* \* \* \* \*

(c) *Treatment technique requirements for pathogenic bacteria, viruses and protozoan cysts.* A public water system shall provide adequate treatment to reliably protect users from the adverse health effects of microbiological contaminants, including pathogenic bacteria, viruses and protozoan cysts. The number and type of treatment barriers and the efficacy of treatment provided shall be commensurate with the type, degree and likelihood of contamination in the source water.

(1) A public water supplier shall provide, as a minimum, continuous filtration and disinfection for surface water and GUDI sources. The treatment technique shall provide at least 99.9% removal and inactivation of *Giardia lamblia* cysts, and at least 99.99% removal and inactivation of enteric viruses. Beginning January 1, 2002, public water suppliers serving 10,000 or more people shall provide at least 99% removal of *Cryptosporidium* oocysts. Beginning January 1, 2005, public water suppliers serving fewer than 10,000 people shall provide at least 99% removal of *Cryptosporidium* oocysts. The Department, depending on source water quality conditions, may require additional treatment as necessary to meet the requirements of this chapter and to protect the public health.

(i) The filtration process shall meet the following performance requirements:

(A) *Conventional or direct filtration.*

\* \* \* \* \*

(IV) Beginning January 1, 2005, for public water systems serving fewer than 10,000 persons, the filtered water turbidity shall meet the following criteria:

(-a-) Be less than or equal to 0.3 NTU in at least 95% of the measurements taken each month under § 109.301(1).

(-b-) Be less than or equal to 1 NTU at all times, measured under § 109.301(1).

\* \* \* \* \*

#### § 109.204. Disinfection profiling and benchmarking.

(a) The disinfection profiling and benchmarking requirements, established by the EPA under the National Primary Drinking Water Regulations in 40 CFR 141.172, 141.530—141.536, 141.540—141.544 and 141.570(c) and (d) are incorporated by reference except as otherwise established by this chapter.

(b) Public water suppliers that did not conduct TTHM and HAA5 monitoring under this section because they served fewer than 10,000 persons when the monitoring was required, but serve 10,000 or more persons before January 1, 2005, shall comply with this section. These suppliers shall also establish a disinfection benchmark and consult with the Department for approval. A supplier that decides to make a significant change to its disinfection practice, as described in this section, shall consult with the Department before making such a change.

(c) The public water supplier shall conduct disinfection profiling in accordance with the procedures and methods in the most current edition of the *Disinfection Profiling and Benchmarking Guidance Manual* published by the EPA. The results of the disinfection profiling and the benchmark, including raw data and analysis, shall be retained indefinitely on the water system premises or at a convenient location near the premises. Public water suppliers serving 10,000 or more persons and required to conduct disinfection profiling shall submit the disinfection profiling data and the benchmark data to the Department

by June 1, 2001, in a format acceptable to the Department. Public water suppliers serving 500 to 9,999 persons shall submit the disinfection profiling data and the benchmark to the Department by October 1, 2004. Public water suppliers serving less than 500 persons shall submit the disinfection profiling data and the benchmark to the Department by April 1, 2005, in a format acceptable to the Department.

#### Subchapter C. MONITORING REQUIREMENTS

##### § 109.301. General monitoring requirements.

The monitoring requirements established by the EPA under the National Primary Drinking Water Regulations, 40 CFR Part 141 (relating to national primary drinking water regulations), as of December 8, 1984, are incorporated by reference. Public water suppliers shall monitor for compliance with MCLs and MRDLs in accordance with the requirements established in the National Primary Drinking Water Regulations, except as otherwise established by this chapter unless increased monitoring is required by the Department under § 109.302 (relating to special monitoring requirements). Alternative monitoring requirements may be established by the Department and may be implemented in lieu of monitoring requirements for a particular National Primary Drinking Water Regulation if the alternative monitoring requirements are in conformance with the Federal act and regulations. The monitoring requirements shall be applied as follows:

(1) *Performance monitoring for filtration and disinfection.* A public water supplier providing filtration and disinfection of surface water or GUDI sources shall conduct the performance monitoring requirements established by the EPA under the National Primary Drinking Water Regulations, unless increased monitoring is required by the Department under § 109.302.

\* \* \* \* \*

(iv) A public water supplier providing conventional filtration treatment or direct filtration and serving 10,000 or more people and using surface water or GUDI sources shall, beginning January 1, 2002, conduct continuous monitoring of turbidity for each individual filter using an approved method under the EPA regulation in 40 CFR 141.74(a) (relating to analytical and monitoring requirements) and record the results at least every 15 minutes. Beginning January 1, 2005, public water suppliers providing conventional or direct filtration and serving fewer than 10,000 people and using surface water or GUDI sources shall conduct continuous monitoring of turbidity for each individual filter using an approved method under the EPA regulation in 40 CFR 141.74(a) and record the results at least every 15 minutes.

\* \* \* \* \*

(C) A public water supplier serving 10,000 or more persons has a maximum of 5 working days following the failure of the equipment to repair or replace the equipment before a violation is incurred.

(D) A public water supplier serving fewer than 10,000 persons has a maximum of 14 days following the failure of the equipment to repair or replace the equipment before a violation is incurred.

\* \* \* \* \*

#### Subchapter D. PUBLIC NOTIFICATION

##### § 109.407. General public notification requirements.

(a) *Violation categories and other situations requiring a public notice.* A public water supplier shall give public notice for the following circumstances:

\* \* \* \* \*

(2) Failure to comply with a prescribed treatment technique requirement in Subchapter B, G or K (relating to MCLs, MRDLs or treatment technique requirements; system management responsibilities; and lead and copper).

\* \* \* \* \*

**§ 109.409. Tier 2 public notice—form, manner and frequency of notice.**

(a) *General violation categories and other situations requiring a Tier 2 public notice.* A public water supplier shall provide Tier 2 public notice for the following circumstances:

(1) All violations of the primary MCL, MRDL and treatment technique requirements in Subchapter B, G or K (relating to MCLs, MRDLs or treatment technique requirements; system management responsibilities; and lead and copper), except where a Tier 1 notice is required under § 109.408 (relating to Tier 1 public notice—form, manner and frequency of notice) or when the Department determines that a Tier 1 notice is required. The tier assignment for fluoride is not incorporated by reference. Under § 109.202(d) (relating to MCLs, MRDLs or treatment technique requirements), a public water system shall comply with the primary MCL for fluoride of 2 mg/L. As such, a public water supplier shall provide Tier 2 public notice for violation of the primary MCL for fluoride.

\* \* \* \* \*

**Subchapter G. SYSTEM MANAGEMENT RESPONSIBILITIES**

**§ 109.701. Reporting and recordkeeping.**

(a) *Reporting requirements for public water systems.* Public water systems shall comply with the following requirements:

\* \* \* \* \*

(2) *Monthly reporting requirements for performance monitoring.*

(i) The test results of performance monitoring required under § 109.301(1) (relating to general monitoring requirements) for public water suppliers providing filtration and disinfection of surface water or GUDI sources shall include the following at a minimum:

(A) For turbidity performance monitoring:

\* \* \* \* \*

(V) Instead of clause (A)(III) and (IV), beginning January 1, 2002, for public water systems that serve 10,000 or more people and use conventional or direct filtration:

\* \* \* \* \*

(VI) Instead of clause (A)(III) and (IV), beginning January 1, 2005, for public water systems that serve fewer than 10,000 persons and use conventional or direct filtration:

(-a-) The number of filtered water turbidity measurements that are less than or equal to 0.3 NTU.

(-b-) The date, time and values of any filtered water turbidity measurements exceeding 1 NTU.

\* \* \* \* \*

**§ 109.714. Filter profile, filter self-assessment and comprehensive performance evaluations.**

Public water systems are required to perform or conduct a filter profile, filter self-assessment or CPE if any individual filter monitoring conducted under § 109.301(1)(iv) (relating to general monitoring requirements) demonstrates one or more of the conditions in paragraphs (1)–(3).

(1) If an individual filter demonstrates a condition under § 109.701(e)(2)(i) or (ii) (relating to reporting and recordkeeping), the public water system shall notify the Department within 24 hours of the individual filter turbidity level exceedance and shall report the obvious reason for the abnormal filter performance. If a system serving 10,000 or more persons is not able to identify the reason for the exceedance, the system shall produce a filter profile within 7 days of the exceedance and report to the Department that a filter profile was produced.

(2) If an individual filter demonstrates a condition under § 109.701(e)(2)(iii), the public water system shall notify the Department within 24 hours of the individual filter turbidity level exceedance, shall conduct a self-assessment of the filter within 14 days of the exceedance and shall report to the Department that a filter self-assessment was conducted. A filter self-assessment shall consist of at least the following components:

\* \* \* \* \*

(vi) For public water suppliers serving fewer than 10,000 persons, if a self-assessment is required, the public water supplier shall report the date that it was triggered and the date that it was completed.

(3) If an individual filter demonstrates a condition under § 109.701(e)(2)(iv), the public water system shall:

\* \* \* \* \*

(iv) Instead of subparagraphs (ii) and (iii), for public water systems serving fewer than 10,000 persons:

(A) Arrange for the conduction of a CPE by the Department no later than 60 days following the turbidity level exceedance.

(B) Ensure that the CPE is completed and submitted to the Department no later than 120 days following the turbidity level exceedance.

(C) A new CPE is not required if a CPE was completed by the Department within the previous 12 months, or the system and the Department are jointly participating in a program involving a combination of CPE results as the bases for implementing process control priority-setting techniques and maintaining long-term involvement to systematically train staff and administrators at the system.

(D) If a CPE is required, the public water system shall report that a CPE is required and the date that it was triggered.

[Pa.B. Doc. No. 04-1061. Filed for public inspection June 18, 2004, 9:00 a.m.]

# PROPOSED RULEMAKING

## DEPARTMENT OF STATE

### [4 PA. CODE CH. 161] Fees for Notary Services

The Department of State (Department) proposes to amend § 161.1 (relating to schedule of fees) by revising the fees that notaries public may charge for their services to read as set forth in Annex A.

#### A. *Effective Date*

The proposed rulemaking will be effective upon final-form publication in the *Pennsylvania Bulletin*.

#### B. *Statutory Authority*

The proposed rulemaking is authorized under section 21 of the Notary Public Law (act) (57 P.S. § 167), which requires that the fees of notaries public be fixed by the Secretary of the Commonwealth (Secretary) with the approval of the Attorney General. Although section 21 of the act does not require the Secretary to establish notary public fees through the regulatory process, the last notary public fee increase, which occurred on February 11, 1984, was brought about through the rulemaking process and the Secretary has determined that it is in the best interest of the public to also provide for public comment on this proposed rulemaking. Under section 16 of the act (57 P.S. § 162), as amended by the act of December 9, 2002 (P.L. 1269, No. 151) (Act 151) (effective July 1, 2003), notaries public shall in addition to their other powers have the power to administer verifications and therefore, the Secretary is proposing to add a fee for verifications.

#### C. *Background and Purpose*

As previously noted, the fees that notaries public may charge for their services have not been increased since February 11, 1984. (See 14 Pa.B. 431.) Yet, the costs that notaries public must now incur have increased substantially since 1984. For example, the minimum cost to become a notary public, including the Department's application fee, obtaining mandatory education under Act 151 at a minimum of \$35 per class, securing a bond, obtaining a rubber stamp seal and purchasing a register, has increased from about \$46.50 to approximately \$128 since 1984.

One of the major purposes of the proposed rulemaking, which increases fees from \$2 to \$5 for most services, is to help the fees of notaries public bear a closer correlation to increases in the Consumer Price Index, which according to the United States Department of Labor, Bureau of Labor Statistics, rose 85.7% between August 1984 and September 2003.

It is also the intent of the proposed rulemaking to help notaries public better absorb the increased costs they face for the notary public application process, supplies, recordkeeping and recording fees. For example, all Recordors of Deeds charge notaries public fees for recording their oath, commission and bond with the fees ranging from \$32.50 to \$70.50. In addition, the proposed rulemaking will assist applicants seeking initial appointment or reappointment as a notary public in meeting the costs of fulfilling the notary public education requirement

mandated by the most recent amendments to the act brought about by Act 151. Notaries public are typically paying at least \$45 for the 3-hour course and possibly as much as \$159 for the course offered by some providers.

Finally, another major purpose is to help ensure that notary public fees remain competitive with the fees that notaries public may charge in other states. In contrast to the \$2 that notaries public may charge for their services in this Commonwealth, a total of 19 other states, including Delaware, have set their fees at \$5 or higher.

#### D. *Fiscal Impact and Paperwork Requirements*

The proposed rulemaking will have no adverse fiscal impact on the Department, the Bureau of Commissions, Elections and Legislation (Bureau) or the notaries public it commissions. The proposed rulemaking will also have no adverse fiscal impact on the Commonwealth or its political subdivisions. In addition, the proposed rulemaking will not impose any additional paperwork requirements upon the Commonwealth, its political subdivisions or the private sector.

#### E. *Sunset Date*

The Secretary and the Department monitor the regulations of the Bureau on a continuing basis. Therefore, no sunset date has been assigned.

#### F. *Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on June 9, 2004, the Department submitted a copy of this proposed rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the Senate State Government Committee and the House State Government Committee. A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, IRRC may convey any comments, recommendations or objections to the proposed rulemaking within 30 days of the close of the public comment period. The comments, recommendations or objections shall specify the regulatory review criteria which have not been met. The Regulatory Review Act specifies detailed procedures for review, prior to final publication of the rulemaking, by the Department, the General Assembly and the Governor of comments, recommendations or objections raised.

#### G. *Public Comment*

Interested persons are invited to submit written comments, recommendations or objections regarding this proposed rulemaking to Christal Pike-Nase, Counsel, Bureau of Commissions, Elections and Legislation, Notary Section, Office of Chief Counsel, Department of State, 302 North Office Building, Harrisburg, PA 17120 within 30 days following publication of this proposed rulemaking in the *Pennsylvania Bulletin*. Reference no. 16-33 (Fees for Notary Services) when submitting comments.

PEDRO A. CORTES,  
*Secretary of the Commonwealth*

**Fiscal Note:** 16-33. No fiscal impact; (8) recommends adoption.

## Annex A

## TITLE 4. ADMINISTRATION

PART VIII. BUREAU OF [ LEGISLATION, COMMISSIONS AND ELECTIONS ] COMMISSIONS, ELECTIONS  
AND LEGISLATION

## Subpart C. COMMISSIONS

## CHAPTER 161. FEES

## § 161.1. Schedule of fees.

The Bureau of Commissions, Elections and Legislation fee schedule shall conform with the following table:

*Description* *Fees (in dollars)*

\* \* \* \* \*

## NOTARY PUBLIC FEE SCHEDULE

Executing affidavits (no matter how many signatures) .....	\$[ 2 ] 5
Executing acknowledgments .....	\$[ 2 ] 5
In executing acknowledgments, each additional name .....	\$[ 1 ] 2
Executing certificates (per certified copy) .....	\$[ 2 ] 5
Administering oaths (per individual taking an oath) .....	\$[ 2 ] 5
Taking depositions, per page .....	\$[ 2 ] 3
Executing verifications .....	\$ 5
[ Making ] Executing protests, per page .....	\$[ 2 ] 3

[Pa.B. Doc. No. 04-1062. Filed for public inspection June 18, 2004, 9:00 a.m.]

## GAME COMMISSION

### [58 PA. CODE CH. 135]

#### Lands and Buildings

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission), at its April 20, 2004, meeting, proposed the following rule-making:

Amend § 135.48 (relating to State game lands roads open to vehicular traffic for disabled persons) to permit the Director to designate State game lands (SGLs) roads open to vehicular traffic for disabled persons.

The proposed rulemaking will have no adverse impact on the wildlife resources of this Commonwealth.

The authority for the proposed rulemaking is 34 Pa.C.S. (relating to Game and Wildlife Code) (code).

The proposed rulemaking was made public at the April 20, 2004, meeting of the Commission. Comments can be sent until June 25, 2004, to the Director, Information and Education, Game Commission, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797.

#### 1. Introduction

The Commission is proposing to amend § 135.48 to permit the Director to designate SGLs roads open to vehicular traffic for disabled persons.

#### 2. Purpose and Authority

At the April 2002 Commission meeting, the Commissioners voted to authorize the Executive Director and staff to decide on all future trail designations needed to administer Chapter 135 (relating to lands and buildings) and seasonal openings and closings of SGLs administrative roads. The Commission proposes that the same authorization be given to SGLs roads open to vehicular traffic for disabled persons.

Section 721(a) of the code (relating to control of property) provides "The administration of all lands and waters owned, leased or otherwise controlled by the commission shall be under the sole control of the Director, and the commission shall promulgate regulations . . . for its use and protection as necessary to properly manage these lands or waters." The amendment to § 135.48 is proposed under this authority.

#### 3. Regulatory Requirements

The proposed rulemaking amends § 135.48 to permit the Director to designate SGLs roads open to vehicular traffic for disabled persons.

#### 4. Persons Affected

Disabled persons wishing to hunt or trap in this Commonwealth will be affected by the proposed rule-making.

#### 5. Cost and Paperwork Requirements

The proposed rulemaking will result in very limited additional cost and paperwork related to providing a list of open roads available to disabled persons.

#### 6. Effective Date

The proposed rulemaking will be effective upon final-form publication in the *Pennsylvania Bulletin* and will remain in effect until changed by the Commission.

#### 7. Contact Person

For further information regarding the proposed rule-making, contact Michael A. Dubaich, Director, Bureau of Law Enforcement, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797, (717) 783-6526.

VERNON R. ROSS,  
*Executive Director*

**Fiscal Note:** 48-191. No fiscal impact; (8) recommends adoption.

## Annex A

## TITLE 58. RECREATION

## PART III. GAME COMMISSION

## CHAPTER 135. LANDS AND BUILDINGS

## Subchapter C. STATE GAME LANDS

**§ 135.48. State game lands roads open to vehicular traffic for disabled persons.**

(a) *Vehicular traffic permitted.* Vehicular traffic will be permitted on designated roads on State game lands for persons issued a Disabled Persons Permit under section 2923(a) of the act (relating to disabled person permits). **State game lands roads open to vehicular traffic for disabled persons will be designated by the Director. The Commission will make a list of these open roads available to the permittee.**

\* \* \* \* \*

(b) **[Designated roads on State game lands.**

(1) **State Game Lands No. 110—Berks and Schuylkill Counties—Game lands road beginning at State Route 183 to a parking lot located on Township Road T-720, north of Shartlesville, Pennsylvania, a distance of approximately 7.6 miles.**

(2) **State Game Lands No. 117—Washington County—game lands road beginning 5 miles north of Burgettstown Community Park along State Route 4007 to the intersection of State Route 18, a distance of approximately 2.5 miles.**

(3) **State Game Lands No. 12—Bradford and Sullivan Counties—Game lands road beginning at village of Wheelerville, Pennsylvania, along State Route 154 to the intersection of Township Road T-359 south of the town of Laquin, a distance of approximately 8.5 miles.**

(4) **State Game Lands No. 49—Bedford and Fulton Counties—Game lands road beginning 1.5 miles east of Robinsonville, Pennsylvania, along State Route 2006 to a parking lot located on Township Road T-316, a distance of approximately 3.8 miles.**

(5) **State Game Lands No. 244—Jefferson County—Game lands road beginning 3.5 miles east of Knox Dale, Pennsylvania, along State Route 2025 to a parking lot located on this game land, a distance of approximately 3 miles.**

(6) **State Game Lands No. 134—Lycoming and Sullivan Counties—Game lands road beginning 2.5 miles west of Hillsgrove, Pennsylvania, along State Route 4010 to the intersection of State Route 1005, a distance of approximately 6 miles.**

(7) **State Game Lands No. 210—Dauphin County—Game lands road (Lukes Trail) beginning at western game lands boundary to the intersection of State Route 4013, a distance of approximately 1.4 miles.**

(8) **State Game Lands No. 59—McKean and Potter Counties—Game lands road beginning at northern game lands boundary on Township Route T-342 to the intersection of State Route 4001, a distance of approximately 2.4 miles.**

(9) **State Game Lands No. 37—Tioga County—Game lands road beginning at northern game lands boundary on Stephenhouse Run Road to Rarick Fire Tower and intersection of Township Route T-710, a distance of approximately 2.1 miles. ]**

**Additional reference.** See § 135.2 (relating to unlawful acts).

[Pa.B. Doc. No. 04-1063. Filed for public inspection June 18, 2004, 9:00 a.m.]

# PENNSYLVANIA PUBLIC UTILITY COMMISSION

[52 PA. CODE CH. 101]

[L-00040166]

## Public Utility Security Planning and Readiness

The Pennsylvania Public Utility Commission, on March 18, 2004, adopted at proposed rulemaking order requiring all jurisdictional utilities to develop and maintain written physical, cyber security, emergency response and business continuity plans.

### Executive Summary

Pursuant to 66 Pa.C.S. § 1501, every public utility must furnish and maintain adequate, efficient, safe, and reasonable service and facilities, and make changes, alterations, and improvements in or to such service and facilities as shall be necessary for the accommodation, convenience, and safety of its patrons, employees, and the public.

The proposed regulations require jurisdictional utilities to develop and maintain written physical security, cyber security, emergency response, and business continuity plans. In addition, jurisdictional utilities must file a Self Certification Form with the Commission documenting compliance with the above mentioned plans.

These proposed regulations will ensure that jurisdictional utilities are effectively equipped and prepared to provide safe and reliable utility service when faced with security concerns. In addition, jurisdictional utilities will be required to review and exercise their ability to detect, prevent, respond to and recover from abnormal operating conditions on an annual basis.

The contact persons are Kimberly Joyce, Law Bureau (legal), 717-705-3819 and Darren Gill, Bureau of Fixed Utility Services (technical), 717-783-5244.

### Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on June 3, 2004, the Commission submitted a copy of this proposed rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House and Senate Committees. A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, IRRC may convey any comments, recommendations or objections to the proposed rulemaking within 30 days of the close of the public comment period. The comments, recommendations or objections shall specify the regulatory review criteria which have not been met. The Regulatory Review Act specifies detailed procedures for review, prior to final publication of the rulemaking, by the Commission, the General Assembly and the Governor of comments, recommendations or objections raised.

Public Meeting held  
March 18, 2004

*Commissioners Present:* Terrance J. Fitzpatrick, Chairperson; Robert K. Bloom, Vice Chairperson; Glen R. Thomas; Kim Pizzingrilli; Wendell F. Holland

*Public Utility Security Planning and Readiness; Doc. No. L-00040166*

### **Proposed Rulemaking Order**

*By the Commission:*

This proposed rulemaking requires all jurisdictional utilities to develop and maintain written physical, cyber security, emergency response and business continuity plans to protect the Commonwealth's infrastructure and ensure safe, continuous and reliable utility service. In accordance with the proposed regulations, jurisdictional utilities will submit a Physical and Cyber Security Planning Self Certification Form (Self Certification Form) to the Commission documenting compliance with these four plans.

#### *Background*

In the past several years, the Pennsylvania Public Utility Commission (Commission) has ardently worked with its jurisdictional utilities to ensure the safe and reliable delivery of utility services to citizens in the Commonwealth and to refine the emergency management and response processes.

Beginning in 1998, the Commission instituted a Year 2000 technology (Y2K) readiness formal investigation which examined the readiness of approximately 750 public utilities and conducted an assessment of Y2K readiness for twenty-three jurisdictional companies. The attacks of September 11, 2001 dramatically underscored the importance of safeguarding public utility assets. As a result, the Commission immediately surveyed its jurisdictional companies, the PJM Interconnection, and the Pennsylvania Rural Electric Association (PREA). Rail safety inspectors, gas safety inspectors and telecommunications staff were also contacted to assess their industry.

In addition, the Commission began coordinating its security efforts with the state Office of Homeland Security and submitted several comprehensive reports to the House of Representatives and the state Office of Homeland Security. Through this process, the Commission developed a security self certification process for all Commission jurisdictional utilities. The Commission directed that a Physical and Cyber Security Planning Self Certification Form be submitted to the Commission yearly as part of each utility's Annual Financial or Annual Assessment Report.

#### *Procedural History*

The Physical and Cyber Security Program Self Certification Requirements for Public Utilities were issued by the Commission in a Tentative Order<sup>1</sup> entered on August 5, 2003 and published in the *Pennsylvania Bulletin* on August 16, 2003. Comments to the Tentative Order were due on September 5, 2003.

Comments were filed by the Pennsylvania Telephone Association (PTA), the Energy Association of Pennsylvania (EAP), Pennsylvania-American Water Company (PA-American) and The Peoples Natural Gas Company d/b/a Dominion Peoples (Dominion Peoples). Columbia Gas of Pennsylvania, Inc. (Columbia) provided late comments on September 8, 2003.

At the Public Meeting of December 4, 2003, the Commission responded to the filed comments and determined that a self certification process for utility security programs should be instituted for the current and anticipated security compliance of all jurisdictional utilities. The Commission ordered that jurisdictional utilities complete and file with the Commission the Physical and Cyber Security Planning Self Certification Form. See Appendix A. Utilities under the reporting requirements of 52 Pa. Code §§ 27.10, 61.28, 63.36, 65.19, 59.48 and 57.47 must file the Self Certification Form at Docket No. M-00031717, at the time each Annual Financial Report is filed, beginning on or after January 1, 2004.<sup>2</sup> Utilities not subject to the reporting requirements above, but subject to the reporting requirements of 52 Pa. Code §§ 29.43, 31.10 and 33.103 must file the Self Certification Form at Docket No. M-00031717, at the time each Annual Assessment Report is filed, beginning on or after January 1, 2004.<sup>3</sup>

In the Order entered on December 9, 2003, the Commission further ordered the Law Bureau, in conjunction with the Bureau of Fixed Utility Services and the Bureau of Transportation and Safety, to initiate a rulemaking to include the requirement for jurisdictional utilities to develop and maintain appropriate written physical and cyber security plans, emergency response plans and business continuity plans as part of the Commission's regulations. This rulemaking includes the requirement that jurisdictional utilities submit the Self Certification Form to the Commission.

The various security issues facing our utilities present questions that are fundamental to the public health, safety and convenience of Pennsylvanians. Consequently, each of our jurisdictional utilities must be prepared to demonstrate that it is adequately addressing the security issue so as to enable it to furnish and maintain adequate, efficient, safe and reasonable service. 66 Pa.C.S. § 1501. Therefore, the development, maintenance, exercising and implementation of physical security, cyber security, emergency response, and business continuity plans are necessary to ensure that our jurisdictional utilities are effectively equipped to furnish and maintain adequate, efficient, safe and reasonable service.

As referenced above, the Commission has explicit statutory authority to institute these reporting requirements and to carry out and enforce the purposes of the Public Utility Code in the public interest. 66 Pa.C.S. §§ 501, 504 and 1501. The subject matter that the Commission may examine includes issues of security, which if ignored, could pose a serious threat to the utilities' responsibility for providing safe and reliable utility service. Thus, the intent of this rulemaking is to create a minimum set of requirements that can be consistently implemented with sufficient flexibility to account for differences in the types of utilities under the Commission's jurisdiction.

Through this rulemaking, we underscore our commitment to ensure the safe and reliable delivery of utility service in the Commonwealth by promulgating regulations that require each jurisdictional utility to develop and maintain written physical security plans, cyber security plans, emergency response plans and business continuity plans. In addition, each utility will review and exercise its ability to detect, prevent, respond to and recover from abnormal operating conditions. Compliance

<sup>2</sup> This group includes common carriers of passengers and/or household goods and jurisdictional telecommunications, electric, gas, steam heating and water/wastewater utilities.

<sup>3</sup> This group includes common carriers and forwarders of property and railroad carriers.

<sup>1</sup> Docket No. M-00031717.



with the proposed regulations also requires that each jurisdictional utility file the Self Certification Form.

The Commission believes that the adoption of the self certification process will aid the safeguarding of public utility assets, but at the same time, recognizes the sensitive nature of the information that each utility must provide us in the Self Certification Form. Disclosure of a Self Certification Form to the public could be used for criminal or terroristic purposes, jeopardize security or cause substantial harm to the entity filing the Self Certification Form. The potential harm from release of a completed form outweighs the public's interest in accessing this information. Therefore, great care will be taken to protect the confidentiality of information contained in the Self Certification Form, commensurate with its extraordinary sensitivity. As such, the Self Certification Form is deemed confidential and access to it will be restricted.<sup>4</sup>

We further acknowledge that protecting the Commonwealth's infrastructure and key assets necessitates a cooperative paradigm. Homeland security requires coordinated action on the part of federal, state, and local government; the private sector; and concerned citizens. Many other government entities have become actively involved with critical infrastructure protection. For example, the National Electric Reliability Council established security guidelines for physical and cyber security. The Environmental Protection Agency established requirements for emergency plans, vulnerability analysis and corrective measure implementation. The Department of Transportation Office of Pipeline Safety established regulations for security programs and the Pipeline Safety Act was reauthorized to provide for expanded security certification of personnel operating on pipelines. The Federal Railway Administration has established similar protocols.

We do not wish to replicate rules and regulations that are already in place. However, it is our duty to identify and secure the critical infrastructure and key assets within the Commonwealth under our jurisdiction. Therefore, the Self Certification Form is drafted so that any overlapping reporting duties or regulations by other state or federal agencies will not overly burden utilities under our jurisdiction and plans under this rulemaking may satisfy more than one agency or department.

Accordingly, under sections 501, 504 and 1501 of the Public Utility Code, 66 Pa.C.S. §§ 501, 504 and 1501; sections 201 and 202 of the Act of July 31, 1968, P. L. 769 No. 240, 45 P. S. §§ 1201—1202, and the regulations promulgated thereunder at 1 Pa. Code §§ 7.1, 7.2 and 7.5; section 204(b) of the Commonwealth Attorneys Act, 71 P. S. § 732.204(b); section 745.5 of the Regulatory Review Act, 71 P. S. § 745.5; and section 612 of The Administrative Code of 1929, 71 P. S. § 232, and the regulations promulgated thereunder at 4 Pa. Code §§ 7.231—7.234, we are considering adopting the proposed regulations set forth in Annex A; *Therefore,*

*It Is Ordered That:*

1. The proposed rulemaking be opened to consider the regulations set forth in Annex A.

2. The Secretary submit this Order, Appendix A and Annex A to the Office of Attorney General for review as to form and legality and to the Governor's Budget Office for review of fiscal impact.

<sup>4</sup> Self Certification forms must be filed under separate cover with the Secretary at Docket M-00031717.

3. The Secretary certify this Order, Appendix A and Annex A and deposit them with the Legislative Reference Bureau to be published in the *Pennsylvania Bulletin*.

4. An original and 15 copies of any comments referencing the docket number of the proposed regulations be submitted within 30 days of publication in the *Pennsylvania Bulletin* to the Pennsylvania Public Utility Commission, Attention: Secretary, P. O. Box 3265, Harrisburg, PA 17105-3265. When preparing comments, parties should consider this Order in conjunction with the Tentative Order and Order in Docket No. M-00031717.

5. A copy of any comments be filed electronically to Kimberly A. Joyce, kjoyce@state.pa.us.

6. The contact persons for this rulemaking are (technical) Darren Gill, (717) 783-5244 and (legal) Kimberly A. Joyce, Law Bureau, (717) 705-3819.

7. A copy of this Order, Appendix A and Annex A be filed at Docket No. M-00031717.

8. A copy of this Order, Appendix A and Annex A be served upon the Pennsylvania Emergency Management Agency, the Pennsylvania Office of Homeland Security, the Department of Environmental Protection, the Energy Association of Pennsylvania, the Pennsylvania Telephone Association, the Pennsylvania Motor Truck Association, the Pennsylvania Bus Association, the Pennsylvania Taxicab and Paratransit Association, Pennsylvania Moving and Storage Association, the Pennsylvania Limousine Association, the Pennsylvania Chapter of the National Association of Water Companies, the Pennsylvania Section of the American Water Works Association, the Pennsylvania Rural Water Association, Pennsylvania League of Cities and Municipalities, Pennsylvania State Association of Boroughs, Pennsylvania Local Government Commission, Pennsylvania State Association of Township Supervisors and the PUC jurisdictional respondents to House Resolution 361.

9. All jurisdictional utilities operating within the Commonwealth are directed to file the Physical and Cyber Security Planning Self Certification Form consistent with our previous order at Docket No. M-00031717.

JAMES J. MCNULTY,  
*Secretary*

**Fiscal Note:** 57-234. No fiscal impact; (8) recommends adoption.

## Annex A

### TITLE 52. PUBLIC UTILITIES

#### PART I. PUBLIC UTILITY COMMISSION

##### Subpart E. PUBLIC UTILITY SECURITY PLANNING AND READINESS

#### CHAPTER 101. PUBLIC UTILITY PREPAREDNESS THROUGH SELF CERTIFICATION

Sec.	Purpose.
101.1.	Purpose.
101.2.	Definitions.
101.3.	Plan requirements.
101.4.	Reporting requirements.
101.5.	Confidentiality of self certification form.
101.6.	Compliance.

##### § 101.1. Purpose.

This chapter requires a jurisdictional utility to develop and maintain appropriate written physical security, cyber security, emergency response and business continuity plans to protect this Commonwealth's infrastructure and ensure safe, continuous and reliable utility service. A jurisdictional utility shall submit a Physical and Cyber

Security Planning Self Certification Form (Self Certification Form) to the Commission documenting compliance with this chapter.

### § 101.2. Definitions.

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

*Abnormal operating condition*—A condition possibly showing a malfunction of a component or deviation from normal operations that may:

- (i) Indicate a condition exceeding design limits.
- (ii) Result in a hazard to person, property or the environment.

*Business continuity plan*—A written plan that will ensure the continuity or uninterrupted provision of operations and services through arrangements and procedures that enable a utility to respond to an event that could occur by change or unforeseen circumstances. The business continuity plan must:

- (i) Provide guidance on the system restoration for emergencies, disasters and mobilization.
- (ii) Establish a comprehensive process addressing business recovery, business resumption and contingency planning.

*Business recovery*—The process of planning for and implementing expanded operations to address less time-sensitive business operations immediately following an interruption or disaster.

*Business resumption*—The process of planning for and implementing the restarting of defined business operations following an interruption or disaster, usually beginning with the most critical or time-sensitive functions and continuing along a planned sequence to address all identified areas required by the business.

*Contingency planning*—Process of developing advance arrangements and procedures that enable a jurisdictional utility to respond to an event that could occur by change or unforeseen circumstances.

*Critical functions*—Business activities or information that cannot be interrupted or unavailable for several business days without significantly jeopardizing operations of the organization.

*Cyber security*—The measures designed to protect computers, software and communications networks that support, operate or otherwise interact with the company's operations.

*Cyber security plan*—A written plan that delineates a jurisdictional utility's information technology disaster plan. This plan must include:

- (i) Critical functions requiring automated processing.
- (ii) Appropriate backup for application software and data.
- (iii) Alternative methods for meeting critical functional responsibilities in the absence of information technology capabilities.
- (iv) A recognition of the critical time period for each information system before the utility could no longer continue to operate.

*Emergency response plan*—A written plan describing the actions a jurisdictional utility will take if an abnormal operating condition exists, whether due to natural causes or sabotage. Actions include:

(i) Identifying and assessing the problem.

(ii) Mitigating the problem in a coordinated, timely and effective manner.

(iii) Notifying the emergency management system.

*Mission critical*—A term used to describe essential equipment or facilities to the organization's ability to perform necessary business functions.

*Physical security*—The physical (material) measures designed to safeguard personnel, property and information.

*Physical security plan*—

(i) A written plan that delineates the response to security concerns at mission critical equipment or facilities.

(ii) The plan must include specific features of a mission critical equipment or facility protection program and company procedures to follow based upon changing threat conditions or situations.

*Responsible entity*—Person or organization within a jurisdictional utility designated as the security or emergency response liaison to the Commission.

### § 101.3. Plan requirements.

(a) A jurisdictional utility shall develop and maintain written physical and cyber security, emergency response and business continuity plans.

(b) A jurisdictional utility shall review and update these plans annually.

(c) A jurisdictional utility shall maintain a testing schedule of these plans.

(d) A jurisdictional utility shall demonstrate compliance with subsections (a)—(c), through submittal of a Self Certification Form which is available at the Secretary's Bureau and on the Commission's website.

(d) A plan shall define roles and responsibilities by individual or job function.

(e) The responsible entity shall maintain a document defining the action plans and procedures used in subsection (a).

### § 101.4. Reporting requirements.

(a) A utility under the reporting requirements of §§ 27.10, 57.47, 59.48, 61.28, 63.36 and 65.19 shall file the Self Certification Form at the time each Annual Financial Report is filed, under separate cover at Docket No. M-00031717.

(b) A utility not subject to the financial reporting requirements in subsection (a), but subject to the reporting requirements of §§ 29.43, 31.10 and 33.103 (relating to assessment reports; assessment reports; and reports) shall file the Self Certification Form at the time each Annual Assessment Report is filed, under separate cover at Docket No. M-00031717.

### § 101.5. Confidentiality of self certification form.

A Physical and Cyber Security Self Certification Form filed at the Commission is not a public document or record and is deemed confidential and proprietary.

**§ 101.6. Compliance.**

(a) The Commission will review a Self Certification Form filed under § 101.4 (relating to reporting requirements).

(b) The Commission may review a utility's cyber security plan, physical security plan, emergency response plan and business continuity plan under 66 Pa.C.S. §§ 504—506 (relating to reports by public utility; duty to furnish information to commission; cooperation in valuing property; and inspection of facilities and records).

(c) The Commission may inspect a utility's facility to assess performance of its compliance monitoring under 66 Pa.C.S. §§ 504—506.

(d) A utility that has developed and maintained a substantially similar cyber security, physical security, emergency response or business continuity plan under the directive of another state or Federal entity may utilize that substantially similar plan for compliance with this subpart, upon the condition that a Commission representative be permitted to review the cyber security, physical security, emergency response or business continuity plan. A company that is utilizing a substantially similar plan shall briefly describe the alternative plan and identify the authority that requires the alternative plan along with the Self Certification Form filed with the Commission.

**Appendix A****PHYSICAL AND CYBER SECURITY PLANNING SELF CERTIFICATION**

Company Name: Utility/Industry Type:		Year Ended
<b><u>CONFIDENTIAL</u></b> <b>Physical and Cyber Security Planning Self Certification</b> <b>Docket No. M-00031717F0004</b> <b>(Do Not Submit Actual Physical, Cyber, Emergency Response or Business Continuity Plans)</b>		
Item No.	Classification	Response (Yes - No - N/A*)
1	Does your company have a physical security plan?	
2	Has your physical security plan been reviewed and updated in the past year?	
3	Is your physical security plan tested annually?	
4	Does your company have a cyber security plan?	
5	Has your cyber security plan been reviewed and updated in the past year?	
6	Is your cyber security plan tested annually?	
7	Has your company performed a vulnerability or risk assessment analysis as it relates to physical and/or cyber security?	
8	Does your company have an emergency response plan?	
9	Has your emergency response plan been reviewed and updated in the past year?	
10	Is your emergency response plan tested annually?	
11	Does your company have a business continuity plan?	
12	Has your business continuity plan been reviewed and updated in the past year?	
13	Is your business continuity plan tested annually?	

\* Attach a sheet with a brief explanation if N/A is supplied as a response to a question.

The foregoing certification must be verified by the officer having control of the security planning for the respondent.

I am authorized to complete this form on behalf of \_\_\_\_\_ [name of corporation/partnership/proprietorship] being the \_\_\_\_\_ [position] of this corporation/partnership/proprietorship and verify that the facts set forth above are true and correct to the best of my knowledge, information and belief. This verification is made pursuant to 52 Pa. Code § 1.36 and that statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 (relating to unsworn falsification to authorities).

Name of Officer: \_\_\_\_\_

Signature of Officer: \_\_\_\_\_

Phone Number of Officer: \_\_\_\_\_

Email Address of Officer: \_\_\_\_\_

[Pa.B. Doc. No. 04-1064. Filed for public inspection June 18, 2004, 9:00 a.m.]

# STATE BOARD OF EXAMINERS IN SPEECH-LANGUAGE AND HEARING

[49 PA. CODE CH. 45]

## Continuing Education

The State Board of Examiners in Speech-Language and Hearing (Board) proposes to amend §§ 45.1, 45.2 and 45.13 (relating to fees; definitions; and renewal; inactive status) and to add Subchapter G (relating to continuing education) to read as set forth in Annex A.

### *Effective date*

The proposed rulemaking will be effective upon final-form publication in the *Pennsylvania Bulletin*.

### *Statutory Authority*

The proposed rulemaking is authorized under section 5(7) of the Speech-Language and Hearing Licensure Act (act) (63 P. S. § 1705(7)).

### *Background and Need for the Proposed Rulemaking*

The act of October 18, 2000 (P. L. 536, No. 71) authorizes the Board to establish by regulation a continuing education requirement for biennial renewal of licenses of speech-language and hearing professionals.

### *Description of the Proposed Rulemaking*

The proposed rulemaking will require licensed speech-language and hearing professionals to successfully complete 20 clock hours of continuing education as a condition for each biennial renewal period. The continuing education requirement will be implemented after providing written notice to all licensees in accordance with section 5(7) of the act. The applicable biennial period will be inserted in the final-form rulemaking based on the effective date of the rulemaking. Upon application for renewal, each licensee will provide verification of successful completion of the required continuing education. The Board shall require documentary proof of successful completion from the licensees selected for audit. All licensees shall maintain proof of completion of continuing education credits for 4 years. The Board will not renew the license of a licensee who did not complete the required continuing education prior to the renewal date. Upon completion of continuing education, the Board may then renew that license.

In addition, the proposed rulemaking provides standards by which the Board may approve providers of courses of continuing education and responsibilities of the providers. The Board will be deemed to have approved any course previously approved or sponsored by the American Speech-Language and Hearing Association, the American Academy of Audiology and courses offered by academic programs in speech-language pathology, audiol-

ogy or teaching of the hearing impaired associated with institutions of higher education accredited by any state's department of education or a regional commission on institutions of higher education. Other providers may apply for approval of individual courses at least 90 days prior to the scheduled course date. The application fee for individual course approval will be \$40. The Board may deny approval of any course for which the identified faculty is not qualified, the course is in office management, the method for certifying attendance is not verifiable or the provider has made material misstatements in the application. Each provider will be required: to disclose to prospective attendees in advance the objective, content, teaching method and number of hours of continuing education credit; to open the course to licensees; to provide adequate physical facilities; to provide appropriate instructional materials; to employ qualified instructors; and to evaluate the program. Each provider will also be required to provide to each attendee a record of the continuing education, including the participant's name, the dates of the program, the name of the program, the provider's name and the number of continuing education credits. The provider must also be able to provide the Board with verification of a licensee's participation in a continuing education program, including the date of the approval of the program and the name of the entity that approved the program for continuing education credit.

Finally, the proposed rulemaking will authorize disciplinary action against licensees who fail to complete the required continuing education or who submit fraudulent records. Under the same section, providers are subject to the revocation of course approval for appropriate grounds.

### *Fiscal Impact and Paperwork Requirements*

The proposed rulemaking will have a limited fiscal impact on the Commonwealth or its political subdivisions. The proposed rulemaking requires the Board to review all applications for compliance with the continuing education requirement and additional costs will be incurred during the audit process. Ten percent of all licenses will be selected for audit of the continuing education following each biennial renewal period. The costs incurred in the audit will include the cost of postage for inquiry letters, the administrative costs of reviewing the responses and any additional disciplinary action to be taken against licensees who have not complied with the continuing education requirement. It is impossible to estimate the number of licensees who might not comply with the required amount of continuing education. Therefore, the Board cannot estimate any increased enforcement costs at this time. There are no other costs or savings to State government associated with implementation of the proposed rulemaking.

### *Sunset Date*

The Board continuously monitors the cost effectiveness of its regulations. Therefore, no sunset date has been assigned.

### *Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on June 8, 2004, the Board submitted a

copy of this proposed rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the Senate Consumer Protection and Professional Licensure Committee and the House Professional Licensure Committee. A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, IRRC may convey any comments, recommendations or objections to the proposed rulemaking within 30 days of the close of the public comment period. The comments, recommendations or objections shall specify the regulatory review criteria which have not been met. The Regulatory Review Act specifies detailed procedures for review, prior to final publication of the rulemaking, by the Board, the General Assembly and the Governor of comments, recommendations or objections raised.

#### *Public Comment*

Interested persons are invited to submit written comments, recommendations or objections regarding this proposed rulemaking to Sandra Matter, Administrative Assistant, State Board of Examiners in Speech-Language and Hearing, P. O. Box 2649, Harrisburg, PA 17105-2649 within 30 days following publication of this proposed rulemaking in the *Pennsylvania Bulletin*.

SONYA M. WILT,  
Chairperson

**Fiscal Note:** 16A-6802. No fiscal impact; (8) recommends adoption.

#### **Annex A**

### **TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS**

#### **PART I. DEPARTMENT OF STATE**

#### **Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS**

### **CHAPTER 45. STATE BOARD OF EXAMINERS IN SPEECH-LANGUAGE AND HEARING**

#### **Subchapter A. GENERAL PROVISIONS**

#### **§ 45.1. Fees.**

(a) The following are the fees set by the State Board of Examiners in Speech-Language and Hearing:

\* \* \* \* \*

**(5) Application for continuing education course approval..... \$40**

\* \* \* \* \*

#### **§ 45.2. Definitions.**

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

\* \* \* \* \*

**Biennial renewal period**—The period from August 1 of an even-numbered year to July 31 of the next even-numbered year.

\* \* \* \* \*

**Clock hour**—Consists of 50 to 60 minutes of instruction or participation in an approved continuing education course or program.

**Continuing education record**—Report provided to a participant in a continuing education course or program by the provider which indicates the name

of the participant, the dates of the program, the name of the program, the provider's name and the number of clock hours of continuing education credit.

\* \* \* \* \*

**Inactive license**—A license status in which the licensee notifies the Board that the licensee no longer requires an active license to practice.

**Lapsed license**—A license status in which the license has not been currently renewed.

\* \* \* \* \*

**Provider**—An agency, organization, institution, association or center approved by the Board to offer an organized continuing education course or program.

\* \* \* \* \*

#### **Subchapter B. LICENSURE**

§ 45.13. Renewal; inactive status; required continuing education.

\* \* \* \* \*

**(g) Beginning with the renewal period following** *(Editor's Note: The blank refers to the effective date of the adoption of this proposed rulemaking.)*, an application for renewal of a speech-language pathologist, audiologist or teacher of the hearing impaired license will not be granted unless the licensee has certified that the licensee has completed the required continuing education hours under § 45.501 (relating to credit hour requirements). If requested by the Board, an application for renewal must also include the documentation required by § 45.504 (relating to reporting of completion of continuing education).

**(h) An application for reactivation of an inactive or lapsed speech-language pathologist, audiologist or teacher of the hearing impaired license must also include the documentation required by § 45.504 for the preceding biennial period.**

#### **Subchapter G. CONTINUING EDUCATION**

**§ 45.501. Credit hour requirements.**

(a) Each speech-language pathologist, audiologist or teacher of the hearing impaired shall complete 20 clock hours of continuing education during each biennial renewal period, beginning with the renewal period following \_\_\_\_\_ *(Editor's Note: The blank refers to the effective date of the adoption of this proposed rulemaking.)*

(b) Up to 10 clock hours of approved continuing education credit per biennial renewal period may be granted on a case-by-case basis for services as a lecturer or speaker, and for publication of articles, books and research relating to the practice of speech-language pathology, audiology or teaching of the hearing impaired. A licensee seeking continuing education credit under this subsection shall submit a written request with a copy of the lecture, presentation, article, book or research. The request shall be submitted 180 days prior to the expiration of the biennial renewal period for which the licensee is seeking credit.

(c) Unless granted a waiver under § 45.502 (relating to exemption and waiver), the Board will not renew or reactivate any speech-language pathologist, audiologist or teacher of the hearing impaired license until the continu-

ing education required prior to the current biennial renewal period has been completed.

**§ 45.502. Exemption and waiver.**

(a) An individual applying for initial licensure shall be exempted from the continuing education requirement for the biennial period in which the license is granted.

(b) The Board may waive all or part of the continuing education requirement for a biennial renewal period upon request of a licensee. The request must be made in writing, with supporting documentation, and include a description of circumstances sufficient to show why compliance is impossible. Waiver requests will be evaluated by the Board on a case-by-case basis. Waivers may be granted for serious illness, military service or other demonstrated hardship. The Board will send written notification of its approval or denial of a waiver request.

**§ 45.503. Continuing education requirement for biennial renewal of inactive and lapsed licenses.**

A licensee seeking to reinstate an inactive or lapsed license shall show proof of compliance with the continuing education requirement for the preceding biennial period.

**§ 45.504. Reporting completion of continuing education.**

(a) Applicants at the time of license renewal shall provide, on forms provided by the Board, a signed statement certifying that the continuing education requirement has been met.

(b) The Board will utilize a random audit of renewals to determine compliance with the continuing education requirement. Applicants selected for audit shall provide the Board the certified continuing education record, as described in § 45.506(b) (relating to provider responsibilities), for each continuing education program completed to prove compliance with the continuing education requirement.

(c) Individuals shall retain the certified continuing education records for courses completed for a minimum of 4 years.

**§ 45.505. Approval of continuing education programs.**

(a) Credit for continuing education may be obtained for any program approved in advance by the Board. Preapproval is contingent upon compliance with § 45.506 (relating to provider responsibilities).

(b) Anyone, to include colleges, universities, associations, professional societies and organizations, seeking approval to offer programs of continuing education shall:

(1) Apply for approval of the program on forms provided by the Board.

(2) File the application at least 90 days prior to the first scheduled date of the program.

(c) An application must contain:

(1) The full name and address of the provider.

(2) The title of the program.

(3) Faculty names and credentials, and, if requested by the Board, curriculum vitae.

(4) A schedule of the program, including the title and description of each subject, the name of the lecturers and the time allotted.

(5) The total number of clock hours of credit to be awarded.

(6) A method of certifying participation.

(7) The program coordinator who is responsible for certifying participation and compiling an official list of Pennsylvania licensees in attendance at the continuing education program.

(8) A fee as required by § 45.1 (relating to fees).

(d) The Board may deny approval of a program of continuing education based on any appropriate grounds, including the following:

(1) The provider failed to comply with § 45.506 for other programs.

(2) The provider made one or more false or misleading material statements on the application.

(3) The identified faculty is deemed not qualified to present the program.

(4) The course content is in office management or practice building.

(5) The method of certifying participation is not verifiable.

(e) The following programs are deemed approved for continuing education credit:

(1) Continuing education programs approved or sponsored by the American Speech-Language and Hearing Association.

(2) Continuing education programs approved or sponsored by the American Academy of Audiology.

(3) Courses and programs offered by academic programs in speech-language pathology, audiology or teaching of the hearing impaired associated with institutions accredited by any state's department of education or a regional commission on institutions of higher education.

**§ 45.506. Provider responsibilities.**

(a) For each program, the provider shall:

(1) Disclose to prospective participants in advance the objectives, content, teaching method and number of hours of continuing education credit.

(2) Open each course to licensees.

(3) Provide adequate facilities for the number of anticipated participants and the teaching methods to be used.

(4) Provide appropriate instructional materials.

(5) Utilize a verifiable method of certifying participation.

(6) Employ qualified instructors who are knowledgeable in the subject matter.

(7) Evaluate the program through the use of questionnaires of the participants.

(8) Issue a certified continuing education record to each participant.

(9) Retain participation records, written outlines and a summary of evaluations for 5 years.

(10) Provide the Board, upon request, verification of licensee's participation in a continuing education program, including the date of approval of the program and the name of the entity that approved the program for continuing education credit.

(b) Each continuing education record must include at a minimum:

(1) The name of the participant.

(2) The dates of participation in the program.

- (3) The name of the program.
- (4) The provider's name.
- (5) The number of clock hours of continuing education credit.
- (6) The course approval number or an indication of the provider's status as a preapproved provider.

**§ 45.507. Disciplinary action authorized.**

(a) A licensed speech-language pathologist, audiologist or teacher of the hearing impaired who submits fraudulent continuing education records may be subject to discipline under section 10 of the act (63 P. S. § 1710).

(b) A licensed speech-language pathologist, audiologist or teacher of the hearing impaired who fails to complete the required continuing education requirement within any biennial renewal period may be subject to discipline.

(c) The falsification of a continuing education record by a program provider may result in revocation of approval by the Board for further program offerings by that provider.

(d) The Board may revoke the approval of a provider based on any appropriate grounds, including failure of the provider to comply with § 45.506 (relating to provider responsibilities).

[Pa.B. Doc. No. 04-1065. Filed for public inspection June 18, 2004, 9:00 a.m.]

## STATE BOARD OF PHARMACY

[49 PA. CODE CH. 27]

### Technology and Automation

The State Board of Pharmacy (Board) proposes to amend §§ 27.1 and 27.14 (relating to definitions; and supplies) and to add §§ 27.201—27.204 (relating to technology and automation) to read as set forth in Annex A.

#### *Effective Date*

The proposed rulemaking will be effective upon final-form publication in the *Pennsylvania Bulletin*.

#### *Statutory Authority*

The proposed rulemaking is authorized under sections 4(j) and 6(k)(1) and (9) of the Pharmacy Act (63 P. S. §§ 390-4(j) and 390-6(k)(1) and (9)).

#### *Background and Purpose*

The use of computer-based information and communications systems are now prevalent in the fields of medicine and pharmacy. Current regulations of the Board do not reflect nor regulate the use of this technology. The proposed rulemaking allows the incorporation of this technology into the practice of pharmacy and brings the Commonwealth up to date with regulations of other states that currently regulate this technology. The purpose of the proposed rulemaking is to set standards for the use of this technology.

Currently, the Board's regulations do not govern whether pharmacies may accept the transmission of prescriptions of a lawful prescriber by electronic means. Prescriptions may be sent to the pharmacy by telephone or facsimile under §§ 27.18(n) and 27.20 (relating to

standards of practice; and facsimile machines). The proposed rulemaking allows pharmacies to accept a prescription that was transmitted electronically through the Internet or intranet. Pharmacies would also be permitted to maintain the prescription electronically, thus eliminating a need to maintain an original paper prescription. The proposed rulemaking also allows pharmacies to maintain required records on a computer as opposed to keeping paper files. Pharmacies can then begin moving toward a paperless recordkeeping system.

The proposed rulemaking also provides for the use of centralized prescription processing and automated medication systems. By implementing these innovations into the practice of pharmacy, a pharmacist may spend more time dealing with the clinical aspects of the practice of pharmacy.

#### *Description of the Proposed Rulemaking*

Section 27.14(c)(11) permits the use of a computerized recordkeeping system in a pharmacy and lists two standards for the use of a computerized recordkeeping system. Proposed § 27.202 (relating to computerized recordkeeping systems) provides a more comprehensive set of standards for a pharmacy's use of a computerized recordkeeping system. Therefore, the proposed amendment to § 27.14(c)(11) removes standards for computerized recordkeeping to the extent they are under proposed § 27.202 and instead cross references § 27.202. The Board also proposes to amend § 27.14 to remove the direct reference to 21 CFR 1304.04(h) (relating to maintenance of records and inventories) and replace that language with a broader reference to State and Federal laws and regulations. The Board recognizes that 21 CFR 1304.04(h) is not the only law or regulation that governs controlled substance prescription records. The proposed rulemaking is more accurate with regard to the duty of a pharmacy to maintain records in accordance with both State and Federal law.

Proposed § 27.201 (relating to electronically transmitted prescriptions) regulates prescriptions transmitted to a pharmacy by electronic means. Currently, the regulations allow for a pharmacist to accept prescriptions transmitted through the telephone or a facsimile machine, but they do not address the acceptance of prescriptions transmitted through electronic means such as a computer or palm device. The proposed rulemaking sets forth the requirements of the electronic prescription that a pharmacist may accept. To protect the prescription from being altered, it must be electronically encrypted or protected by some other means to prevent access, alteration, manipulation or use by an unauthorized person. The patient is able to choose the pharmacy where the prescription will be transmitted. If a pharmacist believes that the prescription does not comply with State and Federal Law, the pharmacist may choose not to fill the prescription. This section also sets forth the recordkeeping requirements for electronic prescriptions. The regulation requires that either a hard copy or a readily retrievable image must be kept for at least 2 years from the date of the most recent filling of the prescription. This 2-year time frame mirrors the length of time that paper prescriptions are required to be kept on file. Like the existing regulations dealing with facsimile machines, this section prohibits any pharmacy or pharmacist from supplying electronic equipment to any prescriber for transmitting prescriptions. Additionally, the proposed rulemaking clarifies that as an electronic transaction, the transmittal of a prescription through electronic means would also be governed by the Electronic Transactions Act (73 P. S. §§ 2260.101—2260.5101).

Proposed § 27.202 provides standards for maintaining records on a computer as opposed to keeping paper files. The records must be immediately retrievable for prescriptions filled within the previous 12 months or retrievable within 3 working days for prescriptions filled within the previous 24 months. The Board feels that these timeframes are reasonable and will not adversely affect patient care. The proposed rulemaking sets forth the information that must be retrievable. Information that is currently required to be on prescriptions under § 27.18(b)(1), as well as identification of the pharmacist responsible for prescription information entered into the computer system, must be retrievable. This section also provides the procedures to be followed when the system experiences down time. To ensure patient safety, prescription information must be entered into the computerized recordkeeping system as soon as it is available for use. Furthermore, when the information from the computerized recordkeeping system is not available, prescriptions may only be refilled if the number of refills authorized by the prescriber has not been exceeded. Finally, safeguards must be in place to prevent access by unauthorized individuals and to identify any modification or manipulation of information in the system.

Proposed § 27.203 (relating to centralized prescription processing) sets forth the standards applicable to centralized prescription processing. Centralized prescription processing is a process where a prescription is tendered to one pharmacy (the proposed rulemaking calls it the "originating pharmacy"), then transmitted to a central fill pharmacy where the prescription is filled or refilled. Generally, given the volume of prescriptions that it fills, the central fill pharmacy uses an automated medication system to fill prescriptions. The filled prescription is then transferred to the delivering pharmacy where the filled prescription is ultimately delivered to the patient. This section sets forth definitions for each pharmacy involved in centralized prescription processing and specifies which pharmacy is responsible for each step in the prescription filling process. The Board has determined that because a central processing center may be considered the "originating pharmacy" as defined by this section, the central processing center must also be a licensed pharmacy. Because the Board understands that the primary focus of the central processing center will be to process prescriptions and not actually dispense them, the Board has decided to exempt the central processing center from the requirement to maintain \$5,000 worth of nonproprietary drugs and devices in § 27.14(a).

Proposed § 27.204 (relating to automated medication systems) regulates the use of automated medication systems to fill prescriptions. This section defines an automated medication system and sets forth the requirements and safeguards that must be in place to use a system such as this. Automated medication systems may be used either in a licensed pharmacy or offsite as long as the operation of the automated medication system is supervised by a pharmacist. The proposed rulemaking requires that automated medication systems be validated to accurately dispense medication prior to going into use. The proposed rulemaking also requires an audit trail of the activity of each pharmacist, technician or other authorized personnel working on the automated medication system. The Board may inspect the system to further validate the accuracy of the system. This section sets forth a comprehensive list of requirements pertaining to policies and procedures in operating these systems, conducting maintenance and in the case of disaster. The proposed rulemaking requires written policies and proce-

dures of operation, quality assurance programs, plans for recovery from disaster and preventative maintenance.

#### *Fiscal Impact and Paperwork Requirements*

The proposed rulemaking has no fiscal impact, nor would it impose any additional paperwork requirement on the Commonwealth. The proposed rulemaking should alleviate some paperwork requirements on the regulated community.

#### *Sunset Date*

The Board reviews the effectiveness of its regulations on an ongoing basis. Therefore, no sunset date has been assigned.

#### *Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on June 8, 2004, the Board submitted a copy of this proposed rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the Senate Consumer Protection and Professional Licensure Committee and the House Professional Licensure Committee. A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, IRRC may convey any comments, recommendations or objections to the proposed rulemaking within 30 days of the close of the public comment period. The comments, recommendations or objections shall specify the regulatory review criteria which have not been met. The Regulatory Review Act specifies detailed procedures for review, prior to final publication of the rulemaking, by the Board, the General Assembly and the Governor of comments, recommendations or objections raised.

#### *Public Comment*

Interested persons are invited to submit written comments, suggestions or objections regarding this proposed rulemaking to Melanie Zimmerman, State Board of Pharmacy, P. O. Box 2649, Harrisburg, PA 17105-2649 within 30 days following publication of this proposed rulemaking in the *Pennsylvania Bulletin*.

RICHARD R. SIGMA, R.Ph.,

*Chairperson*

**Fiscal Note:** 16A-5410. No fiscal impact; (8) recommends adoption.

#### **Annex A**

### **TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS**

#### **PART I. DEPARTMENT OF STATE**

#### **Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS**

#### **CHAPTER 27. STATE BOARD OF PHARMACY GENERAL PROVISIONS**

#### **§ 27.1. Definitions.**

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

\* \* \* \* \*

#### ***Automated medication system—***

**(i) A process that performs operations or activities, other than compounding or administration, relative to the storage, packaging, dispensing or**



distribution of medications, and which collects, controls and maintains all transaction information.

(ii) The term does not mean an automatic counting device.

\* \* \* \* \*

**Central fill pharmacy**—A pharmacy engaging in centralized prescription processing by filling and refilling prescriptions, which includes the preparation and packaging of the medication.

**Centralized prescription processing**—The processing, under the direction of a pharmacist, of a request to fill or refill a prescription, to perform functions such as refill authorizations, interventions or other matters related to the practice of pharmacy for subsequent delivery to the delivering pharmacy.

**Central processing center**—A pharmacy operated under the direction of a pharmacist that engages solely in centralized prescription processing.

\* \* \* \* \*

**Delivering pharmacy**—The pharmacy that receives the processed prescription or the filled or refilled prescription for delivering to the patient or the patient's authorized representative.

\* \* \* \* \*

**Originating pharmacy**—The pharmacy that receives the patient's or prescribing practitioner's request to fill or refill a prescription and performs functions such as the prospective drug review. The central processing center or the central fill pharmacy may be considered the originating pharmacy if the prescription was transmitted by the prescriber directly to the centralized pharmacy or if the patient requested the refill from that pharmacy.

\* \* \* \* \*

## STANDARDS

### § 27.14. Supplies.

\* \* \* \* \*

(c) A pharmacy shall maintain at least the following equipment and supplies:

\* \* \* \* \*

(11) Prescription files for keeping prescriptions of nonproprietary drugs in accordance with the act and, for controlled substance prescriptions, [ **the regulations of the DEA in 21 CFR 1304.04(h) (relating to maintenance of records and inventories)** ] **State and Federal laws and regulations.** The original prescription or image of the original prescription shall be retained for 2 years from the date of the most recent filling. A pharmacy may make use of a computerized recordkeeping system for keeping track of telephone prescriptions, refills, counseling, and the like[ , if the system has safeguards to prevent accidental erasure and the information can be transferred to hard copy within 72 hours ] in accordance with § 27.202 (relating to computerized recordkeeping systems).

\* \* \* \* \*

## TECHNOLOGY AND AUTOMATION

### § 27.201. Electronically transmitted prescriptions.

(a) For the purposes of this section, an electronically transmitted prescription means the communication to the

pharmacist by means of data base exchange or e-mail (which does not include telephone or facsimile machine) of original prescriptions or refill authorizations, which have been sent directly from an authorized licensed prescriber or an authorized agent to the pharmacy of the patient's choice and which have not been altered, accessed, viewed, screened or manipulated by an intervening entity or person unless authorized by law.

(b) Except for Schedule II controlled substances which must conform to § 27.18(b)(2) (relating to standards of practice), a pharmacist may accept an electronically transmitted prescription, from a prescriber or a designated agent which has been sent directly to a pharmacy of the patient's choice if the following requirements are met:

(1) The prescription must contain the signature or the electronic equivalent of a signature of the prescriber made in accordance with the Electronic Transactions Act (73 P. S. §§ 2260.101—2260.5101).

(2) The prescription must include the following information:

(i) The information that is required to be contained on a prescription under State and Federal law.

(ii) The prescriber's telephone number.

(iii) The date of the transmission.

(iv) The name of the pharmacy intended to receive the transmission.

(3) The prescription must be electronically encrypted or transmitted by other technological means designed to protect and prevent access, alteration, manipulation or use by any unauthorized person.

(4) A hard copy or a readily retrievable image of the prescription information that is transmitted must be stored for at least 2 years from the date of the most recent filling.

(5) An electronically transmitted prescription must be processed in accordance with the act and this chapter.

(c) The pharmacist and pharmacy may not provide electronic equipment to a prescriber for the purpose of transmitting prescriptions.

### § 27.202. Computerized recordkeeping systems.

(a) A computerized system used by a pharmacy for recording and maintaining information concerning prescriptions under State and Federal laws must be designed so that it is capable of providing immediate retrieval (by means of monitor, hard-copy printout or other transfer medium) of patient information for all prescriptions filled within the previous 12 months and retrieval within 3 working days of all prescriptions dispensed within the previous 24 months from the last activity date. This information must include the following data:

(1) The information required to be on prescriptions under § 27.18(b)(1) (relating to standards of practice).

(2) Identification of the pharmacist responsible for prescription information entered into the computer system.

(b) The system must be able to transfer all patient information to hard copy within 3 working days.

(c) Prescriptions entered into a computer system but not immediately dispensed must meet the following conditions:

(1) The complete prescription information must be entered in the computer system.

(2) The information must appear in the patient's profile.

(3) There must be positive identification, in the computer system or on the hard-copy prescription, of the pharmacist who is responsible for entry of the prescription information into the system.

(4) The original prescription must be filed according to § 27.18(b).

(d) If the computerized recordkeeping system experiences down time, the prescription information must be entered into the computerized recordkeeping system as soon as it is available for use. During the time the computerized recordkeeping system is not available, prescriptions may be refilled only if the number of refills authorized by the prescriber has not been exceeded.

(e) The system must have adequate safeguards to:

(1) Prevent access by any person who is not authorized to obtain information from the system.

(2) Identify any modification or manipulation of information concerning a prescription.

(3) Prevent accidental erasure of information.

#### **§ 27.203. Centralized prescription processing.**

(a) *Centralized prescription processing.* A central fill pharmacy or central processing center may fulfill a request for the processing, filling or refilling of a prescription from either the originating pharmacy or from the patient or the prescriber and may deliver the processed, filled or refilled prescription to a delivering pharmacy provided:

(1) The central fill pharmacy or the central processing center that is to process, fill or refill the prescription has a contract with or has the same owner as the originating pharmacy and the delivering pharmacy. Contractual provisions must include confidentiality of patient information.

(2) The prescription container:

(i) Is clearly labeled with the information required by Federal and State laws and regulations.

(ii) Clearly shows the name, address, telephone number and DEA number of the delivering pharmacy.

(3) Pharmacies that either utilize or act as central fill pharmacies or central processing centers shall have policies and procedures in place that include an audit trail that records and documents the central prescription process and the individuals accountable at each step in the process for complying with Federal and State laws and regulations including recordkeeping.

(4) Pharmacies that engage in centralized prescription processing share a common electronic file.

(5) Each pharmacy engaging in centralized prescription processing shall be jointly responsible for properly filling the prescription.

(6) The delivering pharmacy is responsible for making the offer to counsel to the patient under § 27.19(e) (relating to prospective drug review and patient counseling).

(b) *Exemption.* The central processing center is exempt from maintaining an inventory of at least \$5,000 worth of nonproprietary drugs and devices under § 27.14(a) (relating to supplies).

#### **§ 27.204. Automated medication systems.**

(a) This section establishes standards applicable to licensed pharmacies that utilize automated medication systems which may be used to store, package, dispense or distribute prescriptions.

(b) A pharmacy may use an automated medication system to fill prescriptions or medication orders provided that:

(1) The pharmacist manager, or the pharmacist under contract with a long-term care facility responsible for the dispensing of medications if an automated medication system is utilized at a location which does not have a pharmacy onsite, is responsible for the supervision of the operation of the system.

(2) The automated medication system has been tested and validated by the pharmacy and found to dispense accurately prior to the implementation of the system. The pharmacy shall make the results of the testing available to the Board upon request.

(3) The pharmacy shall make the automated medication system available to the Board for the purpose of inspection, whereby the Board may validate the accuracy of the system.

(4) The automated medication system shall electronically record the activity of each pharmacist, technician or other authorized personnel with the time, date and initials or other identifier in a manner that a clear, readily retrievable audit trail is established. It is the intent of this section to hold responsible each pharmacist for the transaction performed by that pharmacist, precluding the need for a final check of a prescription by one individual pharmacist prior to delivery.

(c) The pharmacist manager or the pharmacist under contract with a long-term care facility responsible for the delivery of medications shall be responsible for the following:

(1) Reviewing and approving the policies and procedures for system operation, safety, security, accuracy, access and patient confidentiality.

(2) Ensuring that medications in the automated medication system are inspected, at least monthly, for expiration date, misbranding and physical integrity, and ensuring that the automated medication system is inspected, at least monthly, for security and accountability.

(3) Assigning, discontinuing or changing personnel access to the automated medication system.

(4) Ensuring that the automated medication system is stocked accurately and an accountability record is maintained in accordance with the written policies and procedures of operation.

(5) Ensuring compliance with applicable provisions of State and Federal law.

(d) When an automated medication system is used to fill prescriptions or medication orders, it must be operated according to written policies and procedures of operation. The policies and procedures of operation must:

(1) Include a table of contents.

(2) Include a description of all procedures of operation.

(3) Set forth methods that shall ensure retention of each amendment, addition, deletion or other change to the policies and procedures of operation for at least 2 years after the change is made. Each change shall be signed or initialed by the registered pharmacist in charge

and include the date on which the registered pharmacist in charge approved the change.

(4) Set forth methods that ensure that a pharmacist currently licensed in the transmitting jurisdiction reviews and approves the transmission of each original or new prescription or medication order to the automated medication system before the transmission is made.

(5) Set forth methods that ensure that access to the records of medications and other medical information of the patients maintained by the pharmacy is limited to licensed practitioners or personnel approved to have access to the records.

(6) Set forth methods that ensure that access to the automated medication system for stocking and removal of medications is limited to licensed pharmacists or qualified support personnel acting under the supervision of a licensed pharmacist. An accountability record which documents all transactions relative to stocking and removing medications from the automated medication system must be maintained.

(7) Identify the circumstances under which medications may be removed from the automated medication system by a licensed medical practitioner for distribution to a patient without prior order review by a licensed pharmacist.

(e) A pharmacy that uses an automated medication system to fill prescriptions or medication orders shall, at least annually, review its written policies and procedures of operation and revise them, if necessary.

(f) A copy of the written policies and procedures of operation adopted under this section shall be retained at the pharmacy and at the long-term care facility where the automated medication system is utilized. Upon request, the pharmacy shall provide to the Board a copy of the written policies and procedures of operation for inspection and review.

(g) The pharmacist manager shall be responsible for ensuring that, prior to performing any services in connection with an automated medication system, all licensed

practitioners and supportive personnel are trained in the pharmacy's standard operating procedures with regard to automated medication systems as set forth in the written policies and procedures. The training shall be documented and available for inspection.

(h) A pharmacy that uses an automated medication system to fill prescriptions or medication orders shall operate according to a written program for quality assurance of the automated medication system which:

(1) Requires monitoring of the automated medication system.

(2) Establishes mechanisms and procedures to test the accuracy of the automated medication system at least every 6 months and whenever any upgrade or change is made to the system.

(3) Requires the pharmacy to maintain all documentation relating to the written program for quality assurance for at least 2 years. Upon reasonable notice from the Board, the pharmacy shall provide information to the Board regarding the quality assurance program for automated medication systems.

(i) A pharmacy that uses an automated medication system to fill prescriptions or medication orders shall maintain a written plan for recovery from a disaster that interrupts the ability of the pharmacy to provide services. The written plan for recovery must include:

(1) Planning and preparation for a disaster.

(2) Procedures for response to a disaster.

(3) Procedures for the maintenance and testing of the written plan for recovery.

(j) A pharmacy that uses an automated medication system to fill prescriptions or medication orders shall maintain a written program for preventative maintenance of the system. Documentation of completion of all maintenance shall be kept on file in the pharmacy for a minimum of 2 years.

[Pa.B. Doc. No. 04-1066. Filed for public inspection June 18, 2004, 9:00 a.m.]

# NOTICES

## DEPARTMENT OF AGRICULTURE

### Dog Control Facility Bill Reimbursement Grant Program

The Department of Agriculture (Department) gives notice that it intends to award up to \$250,000 in grants under its Year 2005 Dog Control Facility Bill Reimbursement Program (program). The program will award bill reimbursement grants of up to \$10,000 per recipient to humane societies or associations for the prevention of cruelty to animals that meet the guidelines and conditions of the program. The program will be funded from the Dog Law Restricted Account, from funds which are declared to be "surplus" funds for the limited purposes set forth in section 1002(b) of the Dog Law (3 P.S. § 459-1002(b)).

The proposed guidelines and conditions for the program are as follows.

In fulfillment of 7 Pa. Code § 23.4 (relating to guidelines and conditions), the Department invites public and legislative review of the proposed guidelines and conditions. Commentators should submit their comments, in writing, so they are received by the Department within 30 days from the date of this notice. Comments should be sent to Mary Bender, Director, Bureau of Dog Law Enforcement, Department of Agriculture, 2301 North Cameron Street, Harrisburg, PA 17110-9408.

The Department will review and consider written comments in preparing the final guidelines and conditions for the program. The final guidelines and conditions for the program will be published in the *Pennsylvania Bulletin* after the close of the comment period. The Department will invite the submission of grant applications at that time.

#### **Proposed Guidelines and Conditions for the Year 2005 Dog Control Facility Bill Reimbursement Grant Program**

##### **1. Definitions.**

The following words and terms, when used in these guidelines and conditions, have the following meanings:

*Department*—The Department of Agriculture.

*Dog control*—The apprehending, holding and disposing of stray or unwanted dogs, or as otherwise defined in section 102 of the Dog Law (3 P.S. § 459-102).

*Eligible bill*—A document seeking payment for materials, services or utilities from a grant recipient, setting forth the following:

- i. The date the document is issued.
- ii. The name and address of the humane society or association for the prevention of cruelty to animals to which the bill is issued.
- iii. If for materials, a description of the materials and the date of delivery. Invoices and/or receipts for materials must set forth or be accompanied by a written description of the intended use of the material and the date the material is used. Materials may not include computers, computer equipment or software. Examples of eligible materials include the following:

- Cleaning supplies.
- Office supplies—typical supplies used to carry on daily office duties.
- Materials for building and repair projects.
- Purchases of medication, needles, and the like.

iv. If for services, a description of the nature of the services and the dates upon which the services were rendered. Examples of services include the following:

- Labor charges with respect to which the invoice details the exact service performed and the date of performance.
- Veterinarian services with respect to which the invoice identifies the dog treated and the reason for the treatment.
- Cremation services with respect to which the invoice either verifies that only dogs were cremated or—in the event that animals other than dogs were cremated—separates the dogs from those other animals and identifies a charge attributable to only the cremation of the dogs.

v. If for utilities (such as electricity, water, sewer, waste disposal and similar purposes), a statement of the period for which the utility, for which payment is sought, was provided.

vi. The name, address and telephone number of the entity issuing the invoice or receipt.

*Humane society or association for the prevention of cruelty to animals*—A nonprofit society or association duly incorporated under 15 Pa.C.S. Chapter 53, Subchapter A (relating to incorporation generally) for the purpose of prevention of cruelty to animals, or as otherwise defined in section 102 of the Dog Law.

*Program*—The Year 2005 Dog Control Facility Bill Reimbursement Program.

##### **2. Eligibility.**

A humane society or association for the prevention of cruelty to animals is eligible to apply to receive a grant under the Program if that humane society or association for the prevention of cruelty to animals:

- a. Has been in operation for at least 1 year immediately preceding the application date.
- b. Has performed dog control functions for at least 1 year immediately preceding the application date.
- c. Has, in the performance of its dog control functions, accepted at least 100 stray or unwanted dogs into its facility within the year immediately preceding the application date.
- d. Is not a party to a contract with the Department under which the Department pays that humane society or association for the prevention of cruelty to animals for dog control activities performed in the year 2005.
- e. Agrees—as a condition of receiving any grant money under the Program—to continue to perform dog control activities through the year 2005.
- f. Has a total operating budget of \$350,000 or less for the 2005 calendar year or, if its budget is on a basis other than calendar year, has a total operating budget of \$350,000 or less for each fiscal year comprising any portion of calendar year 2005.

g. Has a valid Pennsylvania 2005 "Non Profit" kennel license, and operates only a nonprofit kennel at the facility for which grant reimbursement is requested. Facilities which house kennel operations other than a nonprofit facility (that is, boarding kennel and/or commercial kennel) at the same location are not eligible to participate in this program.

### 3. Use of Grant Funds.

The Department will allocate a specific maximum grant amount to a successful grant applicant through a written grant agreement. This maximum grant amount will be specified in the grant agreement, and will not exceed \$10,000 with respect to any application. The maximum grant amount will be retained by the Department and used to reimburse the grant recipient for eligible bills the grant recipient has paid with respect to materials, services or utilities provided to the grant recipient from January 1, 2005, through December 31, 2005. The total reimbursement the Department will pay a grant recipient will not exceed the maximum grant amount. Any money remaining in a grant allocation beyond the termination date of the grant agreement will lapse into the Dog Law Restricted Account. If a bill covers materials, services or utilities provided, in whole or in part, before January 1, 2005, or after December 31, 2005, that bill is not an eligible bill and will not be reimbursed by the Department under the Program. The sole exception to the prohibition set forth in the preceding sentence is as follows: If a bill covers materials, services or utilities provided in part in 2004 and in part in 2005, and the grant recipient was also a grant recipient under the Year 2004 Dog Control Facility Bill Reimbursement Program, the Department may, at its discretion, consider the bill an eligible bill.

### 4. Application Process.

a. *Application required.* A humane society or association for the prevention of cruelty to animals seeking a grant under the Program must complete a written application form and deliver it to the Department no later than 30 days from the date this notice is published in the *Pennsylvania Bulletin*. Applications received by the Department beyond that date will not be considered.

b. *Obtaining an application form.* The Department will provide grant application forms upon request. Requests for application forms should be directed to Mary Bender, Director, Bureau of Dog Law Enforcement, Department of Agriculture, 2301 North Cameron Street, Harrisburg, PA 17110-9408, (717) 787-4833, fax (717) 772-4352.

c. *Contents of grant application form.* A grant application form shall require the following information:

- i. The name and address of the applicant.
- ii. Information to verify that the applicant is a humane society or association for the prevention of cruelty to animals and otherwise meets the eligibility requirements set forth in paragraph 2.
- iii. The maximum grant amount sought by the applicant—not to exceed \$10,000.
- iv. A description of the eligible bills for which the grant applicant intends to seek reimbursement, including a description (and copies, if available) of bills received by the applicant in 2004 for the same type of materials, services or utilities for which reimbursement will be sought under the grant agreement.
- v. Other information as the Department might reasonably require.

### 5. Review and Approval of Grant Application.

a. *Review and notification.* The Department will review each timely grant application and provide the applicant written notification of whether the Department awards the grant, denies the grant or awards a grant in some amount less than the applicant sought. This written notification will be mailed no later than 60 days from the date the Bureau of Dog Law Enforcement receives the grant application to the address provided by the applicant on the grant application form. If an application is incomplete or the Department requires additional information or documentation to evaluate the grant request, it will so advise the applicant within 60 days from the date it receives the grant application.

b. *Review criteria.* The Department will consider the following, among other factors, in determining whether to award a grant application:

- i. The number of applications received and the availability of funds for the grants sought.
- ii. The relative contribution of the applicant to dog control activities in the area it serves.
- iii. The relative contribution of the applicant to dog control as compared to the relative contribution of other applicants.
- iv. The relative importance of the grant to the continued operation of the applicant's dog control facility.
- v. The expense or logistical difficulty the Department would encounter if the applicant's dog control facility was no longer in operation.

### 6. Grant Agreement.

a. *Grant agreement required.* A successful grant applicant must execute a grant agreement with the Department, setting forth the terms and conditions under which the grant money will be used by the Department to reimburse the grant recipient for payment of eligible bills.

b. *Reimbursement requests.* The grant agreement will set forth the exact procedure by which a grant recipient shall seek reimbursement from the Department for payment of eligible bills. The basic reimbursement request procedure will be as follows:

By May 15, 2005, the grant recipient will: (1) deliver copies of the eligible bills it has paid between January 1 and April 30, 2005; (2) verify that these bills have been paid and are eligible for reimbursement; and (3) provide a detailed report of the dog control activities performed by the successful applicant during the referenced 4-month period.

By September 15, 2005, the grant recipient will: (1) deliver copies of the eligible bills it has paid between May 1 and August 31, 2005; (2) verify that these bills have been paid and are eligible for reimbursement; and (3) provide a detailed report of the dog control activities performed by the successful applicant during the referenced 4-month period.

By January 15, 2006, the grant recipient will: (1) deliver copies of the eligible bills it has paid between September 1 and December 31, 2005; (2) verify that these bills have been paid and are eligible for reimbursement; and (3) provide a detailed report of the dog control activities performed by the successful applicant during the referenced 4-month period.

c. *Payment by the Department.* The Department will reimburse a grant recipient for eligible bills within 90 days of receiving a complete and timely reimbursement request.

d. *Termination.* The Department may terminate a grant agreement at any time by providing the grant recipient written notice of termination at the address set forth on the grant application.

DENNIS C WOLFF,  
*Secretary*

[Pa.B. Doc. No. 04-1067. Filed for public inspection June 18, 2004, 9:00 a.m.]

## General Quarantine Order

### *Recitals*

A. Avian influenza is an infectious disease of poultry and is designated a "dangerous transmissible disease" of animals under 3 Pa.C.S. § 2321(d) (relating to dangerous transmissible diseases).

B. The Department of Agriculture (Department) has broad authority under the Domestic Animal Law to regulate the keeping and handling of domestic animals to exclude, contain or eliminate dangerous transmissible diseases.

C. In the past, avian influenza has caused significant loss to the poultry industry in this Commonwealth. It is of particular concern to the entire poultry industry in this Commonwealth and may severely limit the market for Pennsylvania products.

D. On February 17, 2004, avian influenza was detected in a poultry flock located in Lancaster County. The affected poultry flock was immediately made the subject of an Order of Special Quarantine issued by the Department.

E. On May 24, 2004, avian influenza was detected at a second poultry flock in Lancaster County. The affected poultry flock was made the subject of an Order of Special Quarantine issued by the Department.

F. The Domestic Animal Law allows, in 3 Pa.C.S. § 2329(d) (relating to quarantine), for the establishment of a General Quarantine, under the circumstances described, with respect to any area or locality within this Commonwealth.

G. The United States Department of Agriculture (USDA) protocols for handling outbreaks of avian influenza recommend a quarantine perimeter be established. Due to the highly infectious nature of avian influenza, a quarantine zone should be established to prevent the spread of the virus. A quarantine should place restrictions upon poultry movement prior to appropriate testing.

Now, therefore, the Department, under the authority granted it under the Domestic Animal Law and section 1702 of The Administrative Code of 1929 (71 P. S. § 442), orders the establishment of a general quarantine as described in the Order.

### *Order*

1. The previous recitals are incorporated into this Order by reference.

2. The area subject to this Order of General Quarantine (the quarantine area) is the roughly rectangular area of Lancaster County described as follows:

Bordered on the east by State Route (SR) 72, running in a southerly direction from the intersection of Elizabethtown Road and SR 72 (at/near Elstonville) to its

intersection with SR 741 and running in a southerly direction on SR 741 to SR 30 (at/near Lancaster).

Bordered on the south by SR 30, running in a westerly direction from the intersection of SR 741 and SR 30, to its intersection with SR 441 (at/near Columbia).

Bordered on the west by SR 441, running in a northerly direction from the intersection of SR 30 and SR 441, to its intersection with SR 743 (at/near Marietta) and then by SR 743, running in a northerly direction to its intersection with Elizabethtown Road (at/near Elizabethtown).

Bordered on the north by the Elizabethtown Road, running in an easterly direction from its intersection with SR 743 to its intersection with SR 72 (at/near Elstonville).

3. The movement of chickens, turkeys, water fowl, guinea fowl and game fowl and the eggs of these birds (collectively, "subject birds") to destinations within or outside of the quarantine area is prohibited, unless under authority of a written permit issued by the Department in accordance with the requirements of this Order.

4. A person who seeks to move subject birds to a destination within or outside of the quarantine area shall:

a. Within 10 days before the planned movement of subject birds, have at least 30 blood samples drawn from the subject birds in the poultry house or other biosecure unit from which the subject birds are to be moved. This sampling shall be done by: (a) a Department-licensed poultry technician; (b) an accredited veterinarian; or (c) Department personnel. Questions regarding the appropriate testing unit from which samples shall be drawn shall be resolved with the Department prior to the sampling.

b. Have the referenced samples tested at an accredited laboratory—whether within the Pennsylvania Animal Diagnostic Laboratory System (PADLS) or another USDA-accredited laboratory—employing the agar gel immunodiffusion (AGID) test with respect to each sample. If an accredited laboratory other than a PADLS laboratory performs the testing, have that laboratory communicate the test results to the Department.

5. The Department shall issue a written permit allowing the movement of subject birds to a destination within or outside of the quarantine area if it receives confirmation from an accredited laboratory that the samples described in paragraph (4) were all avian influenza test-negative using the AGID test. The permit shall expire when 10 days have lapsed from the date the samples described in paragraph (4) were drawn.

6. Questions regarding this general quarantine order should be directed to ATTN: Bruce Schmucker, VMD, Department of Agriculture, Bureau of Animal Health and Diagnostic Services, 2301 North Cameron Street, Harrisburg, PA 17110-9408, (717) 783-9550.

7. This Order shall not be construed as limiting the Department's authority to establish additional quarantine or testing requirements on poultry.

8. This order is effective June 3, 2004, and shall remain in effect until rescinded by the Department.

DENNIS C WOLFF,  
*Secretary*

[Pa.B. Doc. No. 04-1068. Filed for public inspection June 18, 2004, 9:00 a.m.]

# DEPARTMENT OF BANKING

## Action on Applications

The Department of Banking, under the authority contained in the act of November 30, 1965 (P. L. 847, No. 356), known as the Banking Code of 1965; the act of December 14, 1967 (P. L. 746, No. 345), known as the Savings Association Code of 1967; the act of May 15, 1933 (P. L. 565, No. 111), known as the Department of Banking Code; and the act of December 19, 1990 (P. L. 834, No. 198), known as the Credit Union Code, has taken the following action on applications received for the week ending June 8, 2004.

### BANKING INSTITUTIONS

#### Conversions

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
6-3-04	The New Tripoli National Bank New Tripoli Lehigh County <i>To:</i> New Tripoli Bank New Tripoli Lehigh County	New Tripoli	Filed
Application represents conversion from a National bank to a State-chartered banking institution.			

#### Branch Applications

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
5-27-04	Northwest Savings Bank Warren Warren County	1055 Baltimore Street Hanover Penn Township York County	Opened
6-1-04	Fulton Bank Lancaster Lancaster County	1100 Baltimore Pike Glen Mills Concord Township Delaware County	Opened
6-7-04	Citizens Bank of Pennsylvania Philadelphia Philadelphia County	Warwick Square Shopping Center Old York and Mill Roads Jamison Bucks County	Approved
6-7-04	NOVA Savings Bank Philadelphia Philadelphia County	1235 Westlake Drive Berwyn Chester County	Approved
6-7-04	NOVA Savings Bank Philadelphia Philadelphia County	31-33 Lincoln Highway Malvern Chester County	Approved
6-7-04	Bank of Hanover and Trust Company Hanover York County	2300 South Queen Street York York County	Approved
6-7-04	Citizens & Northern Bank Wellsboro Tioga County	2 East Mountain Avenue South Williamsport Lycoming County	Filed

#### Branch Relocations

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
6-3-04	S & T Bank Indiana Indiana County	<i>To:</i> 220 New Castle Road Butler Butler County  <i>From:</i> 181 New Castle Road Butler Butler County	Filed
6-7-04	Commercial Bank of Pennsylvania Latrobe Westmoreland County	<i>To:</i> 11361 Route 30 North Huntingdon Westmoreland County  <i>From:</i> 8775 Norwin Avenue North Huntingdon Westmoreland County	Authorization Rescinded

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
6-7-04	First Commonwealth Bank Indiana Indiana County	<i>To:</i> 2028 North Center Avenue Somerset Somerset County  <i>From:</i> 1514 North Center Avenue Somerset Somerset County	Approved
6-7-04	First Commonwealth Bank Indiana Indiana County	<i>To:</i> 14303 Clearfield-Shawville Highway Clearfield Clearfield County  <i>From:</i> 1800 Daisy Street Ext. Clearfield Clearfield County	Approved
6-7-04	Farmers First Bank Lititz Lancaster County	<i>To:</i> One East Market Street York York County  <i>From:</i> 49 East Market Street York York County	Approved

**SAVINGS INSTITUTIONS**

No activity.

**CREDIT UNIONS****Branch Applications**

<i>Date</i>	<i>Name of Credit Union</i>	<i>Location</i>	<i>Action</i>
6-7-04	UTI Employees Credit Union Collegeville Montgomery County	50 West Third Avenue Collegeville Montgomery County	Approved

A. WILLIAM SCHENCK, III,  
*Secretary*

[Pa.B. Doc. No. 04-1069. Filed for public inspection June 18, 2004, 9:00 a.m.]

**Maximum Lawful Rate of Interest for Residential Mortgages for the Month of July 2004**

The Department of Banking (Department), under the authority contained in section 301 of the act of January 30, 1974 (P. L. 13, No. 6) (41 P. S. § 301), hereby determines that the maximum lawful rate of interest for residential mortgages for the month of July 2004 is 7 1/4%.

The interest rate limitations under the State's usury statute were preempted to a great extent by Federal law, the Depository Institutions Deregulation and Monetary Control Act of 1980 (Pub. L. No. 96-221). Further preemption was instituted with the signing of Pub. L. No. 96-399, which overrode State interest rate limitations on any individual who finances the sale or exchange of residential real property which the individual owns and which the individual occupies or has occupied as a principal residence.

Each month the Department is required by State law to compute and announce the ceiling rate on residential mortgages in this Commonwealth. This maximum rate is determined by adding 2.50 percentage points to the yield rate on long-term government bonds as published by the Federal Reserve Board and/or the United States Treasury. The latest yield rate on long-term government securities is 4.75 to which was added 2.50 percentage points for a

total of 7.25 that by law is rounded off to the nearest quarter at 7 1/4%.

A. WILLIAM SCHENCK, III,  
*Secretary*

[Pa.B. Doc. No. 04-1070. Filed for public inspection June 18, 2004, 9:00 a.m.]

## DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES

**Lower West Branch Susquehanna River Conservation Plan**

The Department of Conservation and Natural Resources (Department), Bureau of Recreation and Conservation, has approved the Lower West Branch Susquehanna River Conservation Plan (Plan) and is placing a segment of the Susquehanna River and all tributaries covered in the Plan in Clinton, Lycoming, Northumberland and Union Counties on the Pennsylvania Rivers Conservation Registry (Registry).

The Northcentral Pennsylvania Conservancy (Conservancy) submitted the Plan and other required information to gain Registry status.



After review of the Plan and other information, the Department has determined that the Pennsylvania Rivers Conservation Program (Program) requirements have been satisfied and places the following on the Registry:

- The segment of the West Branch of the Susquehanna River (Clinton, Lycoming, Northumberland and Union Counties), beginning at the confluence of the West Branch of the Susquehanna River with Lick Run in Clinton County and ending at the confluence of the West Branch of the Susquehanna River with the main branch of the Susquehanna River in Northumberland County—77 linear miles.
- A corridor extending from 1 mile east from the river's east bank to 1 mile west of its west bank.
- The portion of all tributary streams within the river corridor.

This action becomes effective June 19, 2004. Projects identified in the Plan become eligible for implementation, development or acquisition grant funding through the Program.

A copy of the Final Plan is available for review at the Northcentral Pennsylvania Conservancy, 330 Government Place, Williamsport, PA 17701, (570) 323-6222; and the Department of Conservation and Natural Resources, Rachel Carson State Office Building, 400 Market Street, 6th Floor, Harrisburg, PA 17101, (717) 787-7672.

Maps and supporting data are on file at the Conservancy.

MICHAEL F. DIBERARDINIS,  
*Secretary*

[Pa.B. Doc. No. 04-1071. Filed for public inspection June 18, 2004, 9:00 a.m.]

### North Branch of the Susquehanna River Conservation Plan

The Department of Conservation and Natural Resources (Department), Bureau of Recreation and Conservation, has approved the North Branch of the Susquehanna River Conservation Plan (Plan) and is placing segments of the Susquehanna River and all tributaries covered in the Plan in Bradford, Lackawanna, Luzerne, Susquehanna and Wyoming Counties on the Pennsylvania Rivers Conservation Registry (Registry).

The Northcentral Pennsylvania Conservancy submitted the Plan and other required information to gain Registry status.

After review of the Plan and other information, the Department has determined that the Pennsylvania Rivers Conservation Program (Program) requirements have been satisfied and places the following on the Registry:

- A segment of the North Branch of the Susquehanna River, beginning at the New York and Pennsylvania border between Athens and Litchfield Townships in Bradford County and extending to the border between Wyoming and Forty Fort Boroughs in Luzerne County on the west bank of the river and to the border between Jenkins and Plains Townships in Luzerne County on the east bank of the river.
- The Great Bend area of the Susquehanna River that begins at the New York and Pennsylvania border between

Harmony and Oakland Townships in Susquehanna County and flows west and eventually north to the New York and Pennsylvania border in Great Bend Township, Susquehanna County.

- Both corridors extend from 1 mile east from the river's east bank to 1 mile west from the river's west bank.
- The portion of all tributary streams within both river corridors.

This action becomes effective June 19, 2004. Projects identified in the Plan become eligible for implementation, development or acquisition grant funding through the Program.

A copy of the Plan is available for review at Pennsylvania Environmental Council, 175 Main Street, Luzerne, PA 18709, (570) 718-6507; and the Department of Conservation and Natural Resources, Rachel Carson State Office Building, 400 Market Street, 6th Floor, Harrisburg, PA 17101, (717) 787-7672.

Maps and supporting data are on file at the Pennsylvania Environmental Council.

MICHAEL F. DIBERARDINIS,  
*Secretary*

[Pa.B. Doc. No. 04-1072. Filed for public inspection June 18, 2004, 9:00 a.m.]

### River Conservation Plan for the Cowanshannock Creek Watershed

The Department of Conservation and Natural Resources (Department), Bureau of Recreation and Conservation, has approved the River Conservation Plan for the Cowanshannock Creek Watershed (Plan) and is placing the Cowanshannock Creek, the watershed and all tributaries covered in the Plan in Armstrong and Indiana Counties on the Pennsylvania Rivers Conservation Registry (Registry).

The Berks County Conservancy submitted the Plan and other required information to gain Registry status.

After review of the Plan and other information, the Department has determined that the Pennsylvania Rivers Conservation Program (Program) requirements have been satisfied and places the following on the Registry:

1. The watershed area of Cowanshannock Creek Watershed (Armstrong and Indiana Counties) from the headwaters to its confluence with the Allegheny River—63.3 square miles.
2. All tributary streams within the Cowanshannock Creek Watershed.

This action becomes effective June 19, 2004. Projects identified in the Plan become eligible for implementation, development or acquisition grant funding through the Program.

A copy of the Plan is available for review at the Cowanshannock Creek Watershed Association, P. O. Box 307, Rural Valley, PA 16249, (724) 783-6992; and the Department of Conservation and Natural Resources, Rachel Carson State Office Building, 400 Market Street, 6th Floor, Harrisburg, PA 17101, (717) 787-2316.

Maps and supporting data are on file at the Cowanshannock Creek Watershed Association.

MICHAEL F. DIBERARDINIS,  
*Secretary*

[Pa.B. Doc. No. 04-1073. Filed for public inspection June 18, 2004, 9:00 a.m.]

### Three Rivers Conservation Plan

The Department of Conservation and Natural Resources (Department), Bureau of Recreation and Conservation, has approved the Three Rivers Conservation Plan (Plan) and is placing segments of the Allegheny, Monongahela and Ohio Rivers and all tributaries covered in the Plan in Allegheny County on the Pennsylvania Rivers Conservation Registry (Registry).

The Pennsylvania Environmental Council (Council) submitted the Plan and other required information to gain Registry status.

After review of the Plan and other information, the Department has determined that the Pennsylvania Rivers Conservation Program (Program) requirements have been satisfied and places the following on the Registry:

- A segment of the Ohio River from the Emsworth Lock and Dam (MM 6.2) to the Point at Pittsburgh (MM 0.0), Allegheny County—6.2 linear miles.

- A segment of the Allegheny River from the Point to Lock and Dam No. 3 (MM 14.5), Allegheny County—14.5 linear miles.

- A segment of the Monongahela River from the Point to the Glenwood Bridge (MM 6.0), Allegheny County—6 linear miles.

- A corridor extending from 1 mile east from each river segment's east bank to 1 mile west of each segment's west bank.

- The portion of all tributary streams within the river corridor.

This action becomes effective June 19, 2004. Projects identified in the Plan become eligible for implementation, development or acquisition grant funding through the Program.

A copy of the Plan is available for review at the Pennsylvania Environmental Council, 22 Terminal Way, Pittsburgh, PA 15219, (412) 481-9400; and the Department of Conservation and Natural Resources, Rachel Carson State Office Building, 400 Market Street, 6th Floor, Harrisburg, PA 17101, (717) 787-7672.

Maps and supporting data are on file at the Council.

MICHAEL F. DIBERARDINIS,  
*Secretary*

[Pa.B. Doc. No. 04-1074. Filed for public inspection June 18, 2004, 9:00 a.m.]

## DEPARTMENT OF ENVIRONMENTAL PROTECTION

### Applications, Actions and Special Notices

### APPLICATIONS

### THE CLEAN STREAMS LAW AND THE FEDERAL CLEAN WATER ACT APPLICATIONS FOR NATIONAL POLLUTION DISCHARGE ELIMINATION SYSTEM (NPDES) PERMITS AND WATER QUALITY MANAGEMENT (WQM) PERMITS

This notice provides information about persons who have applied for a new, amended or renewed NPDES or WQM permit, a permit waiver for certain stormwater discharges or submitted a Notice of Intent (NOI) for coverage under a general permit. The applications concern, but are not limited to, discharges related to industrial, animal or sewage waste, discharges to groundwater, discharges associated with municipal separate storm sewer systems (MS4), stormwater associated with construction activities or concentrated animal feeding operations (CAFOs). This notice is provided in accordance with 25 Pa. Code Chapters 91 and 92 and 40 CFR Part 122, implementing The Clean Streams Law (35 P. S. §§ 691.1—691.1001) and the Federal Clean Water Act.

<i>Location</i>	<i>Permit Authority</i>	<i>Application Type or Category</i>
Section I	NPDES	Renewals
Section II	NPDES	New or amendment
Section III	WQM	Industrial, sewage or animal waste; discharge into groundwater
Section IV	NPDES	MS4 individual permit
Section V	NPDES	MS4 permit waiver
Section VI	NPDES	Individual permit stormwater construction
Section VII	NPDES	NOI for coverage under NPDES general permits

For NPDES renewal applications in Section I, the Department of Environmental Protection (Department) has made a tentative determination to reissue these permits for 5 years subject to effluent limitations and monitoring and reporting requirements in their current permits, with appropriate and necessary updated requirements to reflect new and changed regulations and other requirements.

For applications for new NPDES permits and renewal applications with major changes in Section II, as well as applications for MS4 individual permits and individual stormwater construction permits in Sections IV and VI, the

Department, based upon preliminary reviews, has made a tentative determination of proposed effluent limitations and other terms and conditions for the permit applications. These determinations are published as proposed actions for comments prior to taking final actions.

Unless indicated otherwise, the EPA Region III Administrator has waived the right to review or object to proposed NPDES permit actions under the waiver provision in 40 CFR 123.24(d).

Persons wishing to comment on an NPDES application are invited to submit a statement to the regional office noted before an application within 30 days from the date of this public notice. Persons wishing to comment on a WQM permit application are invited to submit a statement to the regional office noted before the application within 15 days from the date of this public notice. Comments received within the respective comment periods will be considered in the final determinations regarding the applications. Comments should include the name, address and telephone number of the writer and a concise statement to inform the Department of the exact basis of a comment and the relevant facts upon which it is based.

The Department will also accept requests for a public hearing on applications. A public hearing may be held if the responsible office considers the public response significant. If a hearing is scheduled, a notice of the hearing will be published in the *Pennsylvania Bulletin* and a newspaper of general circulation within the relevant geographical area. The Department will postpone its final determination until after a public hearing is held.

Persons with a disability who require an auxiliary aid, service, including TDD users, or other accommodations to seek additional information should contact the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

## I. NPDES Renewal Applications

*Southeast Region: Water Management Program Manager, 2 East Main Street, Norristown, PA 19401.*

<i>NPDES Permit No. (Type)</i>	<i>Facility Name and Address</i>	<i>County and Municipality</i>	<i>Stream Name (Watershed No.)</i>	<i>EPA Waived Y/N ?</i>
PA0031097	Radley Run Sewer Association Radley Run Country Club 1100 Country Club Road West Chester, PA 19382	Chester County Birmingham Township	Radley Run	Y

*Southcentral Region: Water Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110, (717) 705-4707.*

<i>NPDES Permit No. (Type)</i>	<i>Facility Name and Address</i>	<i>County and Municipality</i>	<i>Stream Name (Watershed No.)</i>	<i>EPA Waived Y/N ?</i>
PA0086541 IW	Denver Cold Storage 555A Sandy Hill Road Denver, PA 17517	Lancaster County West Cocalico Township	UNT Indian River 7-J	Y
PA0084221 SEW	Hidden Springs Campground P. O. Box 190 Flintstone, MD 21530	Bedford County Southampton Township	Rocky Gap Run 13-A	Y

*Northwest Region: Water Management Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481.*

<i>NPDES Permit No. (Type)</i>	<i>Facility Name and Address</i>	<i>County and Municipality</i>	<i>Stream Name (Watershed No.)</i>	<i>EPA Waived Y/N ?</i>
PA0036064	Washington Township Sewer Authority—Angling Road 11800 Edinboro Road Edinboro, PA 16412	Washington Township Erie County	Unnamed tributary to Edinboro Lake 16	Y
PA0101737	Wilderness Mobile Home Park P. O. Box 924 Warren, PA 16365	Pleasant Township Warren County	Unnamed tributary to Morrison Run	Y

## II. Applications for New or Expanded Facility Permits, Renewal of Major Permits and EPA Nonwaived Permit Applications

*Southeast Region: Water Management Program Manager, 2 East Main Street, Norristown, PA 19401.*

**PA0051071**, Industrial Waste, SIC 3533, **Schramm, Inc.**, 800 East Virginia Avenue, West Chester, PA. This proposed facility is in West Goshen Township, **Chester County**.

Description of Proposed Activity: Renewal of NPDES permit to discharge treated wastewater from the drill-rig assembly operation and maintenance areas to Goose Creek.

The receiving stream, Goose Creek, is in the State Water Plan watershed 3H and classified for WWF, aquatic life, water supply and recreation. The nearest downstream public water supply intake for Aqua, PA is on the Chester Creek, 13 miles below the point of discharge.

The proposed effluent limits for Outfall 001 are based on a design flow of 5,000 gpd of rigs wash-water during dry weather conditions to a maximum of 1.7 mgd during wet weather conditions.

<i>Parameter</i>	<i>Average Quarterly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD <sub>5</sub>	Monitor	Monitor
Suspended Solids	Monitor	Monitor
Oil and Grease	15	30
Chemical Oxygen Demand	Monitor	Monitor
Total Kjeldahl Nitrogen	Monitor	Monitor
Phosphorus, Total	Monitor	Monitor
Iron, Dissolved	Monitor	Monitor
Iron, Total	Monitor	Monitor
pH	within limits of 6.0—9.0 standard units at all times	

In addition to the effluent limits, the permit contains the following major special conditions: remedial measure; change in ownership; IW sludge disposal; stormwater runoff; PPC plan; other discharges; definitions; TMDL/WLA analysis; lab certification; and inspection and reporting.

The EPA waiver is in effect.

*Northeast Region: Water Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790.*

**PAS212210**, Industrial, **Meshoppen Stone, Inc.**, P. O. Box 127, Meshoppen, PA 18630. This proposed facility is in Meshoppen Township, **Wyoming County**.

The receiving streams, unnamed tributary to Meshoppen Creek and unnamed tributary to Little Meshoppen Creek, are in the State Water Plan watershed no. 4G and are classified for CWF.

The proposed effluent limits for Outfalls 001—003:

<i>Parameter</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>	
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>
CBOD				Report
COD				Report
Oil and Grease				Report
pH				Report
TSS				Report
Total Phosphorus				Report
Total Kjeldahl Nitrogen				Report
Iron (Dissolved)				Report

*Southwest Region: Water Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.*

**PA0003824**, Industrial Waste, SIC, 2899, **Nalco Company**, P. O. Box 391, Ellwood City, PA 16117. This application is for renewal of an NPDES permit to discharge untreated cooling water and stormwater from the Nalco Ellwood City Plant (North and South Plants) in Franklin Township, **Beaver County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as unnamed tributary to Connoquesnessing Creek, classified as a WWF with existing and/or potential uses for aquatic life, water supply and recreation. The first existing/proposed downstream potable water supply is the Beaver Falls Municipal Authority below the discharge point.

*Outfall 001: existing discharge, design flow of 0.1 mgd.*

<i>Parameter</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
Flow	Monitor and Report				
Temperature				110	
Total Residual Chlorine			Monitor and Report		
pH	not less than 6.0 nor greater than 9.0				

*Outfalls 002—006 and 013—015: existing discharge, design flow of N/A mgd.*

<i>Parameter</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
Discharge consists solely of uncontaminated stormwater runoff.					

The EPA waiver is in effect.

**PA0020788**, Sewage, **Borough of Derry**, 114 East Second Avenue, Derry, PA 15627. This application is for renewal of an NPDES permit to discharge treated sewage from the Derry Borough STP in Derry Borough, **Westmoreland County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as McGee Run, which are classified as a TSF with existing and/or potential uses for aquatic life, water supply and recreation. The first downstream potable water supply intake from this facility is the Saltsburg Municipal Water Works.

*Outfall 001*: existing discharge, design flow of 0.65 mgd.

<i>Parameter</i>	<i>Concentration (mg/l)</i>			
	<i>Average Monthly</i>	<i>Average Weekly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
CBOD <sub>5</sub>				
(5-1 to 10-31)	20	30		40
(11-1 to 4-30)	25	37.5		50
Suspended Solids	30	45		60
Ammonia Nitrogen				
(5-1 to 10-31)	2.0	3.0		4.0
(11-1 to 4-30)	5.5	8.3		11.0
Copper	0.014		0.028	0.035
Zinc	0.115		0.23	0.29
Fecal Coliform				
(5-1 to 9-30)	200/100 ml as a geometric mean			
(10-1 to 4-30)	2,000/100 ml as a geometric mean			
Total Residual Chlorine	0.1			0.3
Dissolved Oxygen	not less than 6 mg/l			
pH	not less than 6.0 nor greater than 9.0			

Other Conditions: Outfall 003, which discharges to the receiving waters known as McGee Run, serves as a combined sewer overflow necessitated by stormwater entering the sewer system and exceeding the hydraulic capacity of the sewers and/or the treatment plant. This combined sewer overflow is permitted to discharge only for this reason. There are at this time no specific effluent limits on the outfall. The discharge shall be monitored for cause, frequency, duration and quantity of flow. Use of Outfall 003 is authorized for 36 months from the permit effective date.

The EPA waiver is in effect.

**PA0025798**, Sewage, **Centerville Borough Sanitary Authority**, P. O. Box 332, Richeyville, PA 15358. This application is for renewal of an NPDES permit to discharge treated sewage from the Richeyville Sewage Treatment Plant in Centerville Borough, **Washington County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as Pike Run, which are classified as a TSF with existing and/or potential uses for aquatic life, water supply and recreation. The first downstream potable water supply intake from this facility is the Newell Municipal Authority on the Monongahela River.

*Outfall 001*: existing discharge, design flow of 0.17 mgd.

<i>Parameter</i>	<i>Concentration (mg/l)</i>			
	<i>Average Monthly</i>	<i>Average Weekly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
CBOD <sub>5</sub>				
(5-1 to 10-31)	20	30		40
(11-1 to 4-30)	25	38		50
Suspended Solids	30	45		60
Ammonia Nitrogen				
(5-1 to 10-31)	5.0	7.5		10.0
(11-1 to 4-30)	15.0	22.5		30.0
Fecal Coliform				
(5-1 to 9-30)	200/100 ml as a geometric mean			
(10-1 to 4-30)	5,000/100 ml as a geometric mean			
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is in effect.

**PA0031984**, Sewage, **Department of Conservation and Natural Resources, Bureau of State Parks, Raccoon Creek State Park**, 3000 SR 18, Hookstown, PA 15050. This application is for renewal of an NPDES permit to discharge treated sewage from the Raccoon Creek State Park STP and WTP in Hanover Township, **Beaver County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as Traverse Creek, which are classified as a TSF with existing and/or potential uses for aquatic life, water supply and recreation. The first downstream potable water supply intake from this facility is the Midland Borough Water Authority.

*Outfall 001:* existing discharge, design flow of 0.1 mgd.

<i>Parameter</i>	<i>Concentration (mg/l)</i>			
	<i>Average Monthly</i>	<i>Average Weekly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
CBOD <sub>5</sub>	25			50
Suspended Solids	30			60
Ammonia Nitrogen				
(5-1 to 10-31)	2.5			5.0
(11-1 to 4-30)	6.0			12.0
Iron	2.0			4.0
Manganese	1.0			2.0
Aluminum	4.0			8.0
Fecal Coliform				
(5-1 to 9-30)	200/100 ml as a geometric mean			
(10-1 to 4-30)	2,000/100 ml as a geometric mean			
Total Residual Chlorine	0.15			0.35
Dissolved Oxygen	not less than 5.0 mg/l			
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is in effect.

**PA0032271**, Sewage, **Bureau of State Parks, Keystone State Park**, R. R. 2, Box 101, Derry, PA 15627-9617. This application is for renewal of an NPDES permit to discharge treated sewage from the Keystone State Park Sewage Treatment Plant in Derry Township, **Westmoreland County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as McCune Run, which are classified as a WWF with existing and/or potential uses for aquatic life, water supply and recreation. The first downstream potable water supply intake from this facility is the Saltsburg Municipal Waterworks on the Conemaugh River.

*Outfall 001:* existing discharge, design flow of 0.075 mgd.

<i>Parameter</i>	<i>Concentration (mg/l)</i>			
	<i>Average Monthly</i>	<i>Average Weekly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
CBOD <sub>5</sub>				
(5-1 to 10-31)	20			40
(11-1 to 4-30)	25			50
Suspended Solids	30			60
Ammonia Nitrogen				
(5-1 to 10-31)	1.5			3.0
(11-1 to 4-30)	2.0			4.0
Fecal Coliform				
(5-1 to 9-30)	200/100 ml as a geometric mean			
(10-1 to 4-30)	2,000/100 as a geometric mean			
Total Residual Chlorine	0.1			0.2
Dissolved Oxygen	not less than 5 mg/l			
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is in effect.

**PA0038181**, Sewage, **Hempfield Township Municipal Authority**, R. D. 6, Box 501, Municipal Building, Greensburg, PA 15601. This application is for renewal of an NPDES permit to discharge treated sewage from the New Stanton Water Pollution Control Facility in Hempfield Township, **Westmoreland County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as Sewickley Creek, which are classified as a WWF with existing and/or potential uses for aquatic life, water supply and recreation. The first downstream potable water supply intake from this facility is the Westmoreland County Municipal Authority—McKeesport.

*Outfall 001:* existing discharge, design flow of 7.2 mgd.

<i>Parameter</i>	<i>Concentration (mg/l)</i>			
	<i>Average Monthly</i>	<i>Average Weekly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
CBOD <sub>5</sub>	25	37.5		50
Suspended Solids	30	45		60
Ammonia Nitrogen				
(5-1 to 10-31)	3.5	5.3		7.0
(11-1 to 4-30)	8.5	12.8		17.0

<i>Parameter</i>	<i>Concentration (mg/l)</i>			
	<i>Average Monthly</i>	<i>Average Weekly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
Fecal Coliform (5-1 to 9-30)	200/100 ml as a geometric mean			
(10-1 to 4-30)	2,000/100 ml as a geometric mean			
Dissolved Oxygen	not less than 5 mg/l			
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is not in effect.

**PA0098817**, Sewage, **Hickory Acres**, 669 Nelson Road F, Farmington, PA 15437. This application is for renewal of an NPDES permit to discharge treated sewage from the Hickory Acres Sewage Treatment Plant in Wharton Township, **Fayette County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as unnamed tributary of Meadow Run, which are classified as a HQ CWF with existing and/or potential uses for aquatic life, water supply and recreation. The first downstream potable water supply intake from this facility is the North Fayette County MA on the Youghiohony River.

*Outfall 001*: existing discharge, design flow of 0.0049 mgd.

<i>Parameter</i>	<i>Concentration (mg/l)</i>			
	<i>Average Monthly</i>	<i>Average Weekly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
CBOD <sub>5</sub> (5-1 to 10-31)	20			40
(11-1 to 4-30)	25			50
Suspended Solids	30			60
Ammonia Nitrogen (5-1 to 10-31)	6.0			12.0
(11-1 to 4-30)	15.0			30.0
Fecal Coliform (5-1 to 9-30)	200/100 ml as a geometric mean			
(10-1 to 4-30)	2,500/100 ml as a geometric mean			
Total Residual Chlorine	0.3			0.7
Dissolved Oxygen	not less than 7 mg/l			
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is in effect.

**PA0110302**, Sewage, **Johnstown Industrial Development Corporation**, 111 Market Street, Johnstown, PA 15901. This application is for renewal of an NPDES permit to discharge treated sewage from the Quemahoning Industrial Development Park STP in Quemahoning Township, **Somerset County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as Quemahoning Creek, which are classified as a CWF with existing and/or potential uses for aquatic life, water supply and recreation. The first downstream potable water supply intake from this facility is the Saltsburg Municipal Waterworks.

*Outfall 001*: existing discharge, design flow of 0.02 mgd.

<i>Parameter</i>	<i>Concentration (mg/l)</i>			
	<i>Average Monthly</i>	<i>Average Weekly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
CBOD <sub>5</sub>	25			50
Suspended Solids	30			60
Ammonia Nitrogen (5-1 to 10-31)	20.0			40.0
(11-1 to 4-30)	25.0			50.0
Fecal Coliform (5-1 to 9-30)	200/100 ml as a geometric mean			
(10-1 to 4-30)	15,000/100 ml as a geometric mean			
Total Residual Chlorine	1.4			3.3
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is in effect.

**PA0216437**, Sewage, **William L. Kovach**, 1027 South 88 Road, Greensboro, PA 15338. This application is for renewal of an NPDES permit to discharge treated sewage from Warwick Mine No. 3, 3 North Shaft STP in Dunkard Township, **Greene County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as Meadow Run, which are classified as a WWF with existing and/or potential uses for aquatic life, water supply and recreation. The first downstream potable water supply intake from this facility is the Dunkard Valley Joint Municipal Authority.

*Outfall 016:* existing discharge, design flow of 0.0125 mgd.

<i>Parameter</i>	<i>Concentration (mg/l)</i>			
	<i>Average Monthly</i>	<i>Average Weekly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
CBOD <sub>5</sub>	25			50
Suspended Solids	30			60
Ammonia Nitrogen				
(5-1 to 10-31)	2.5			5.0
(11-1 to 4-30)	7.5			15.0
Fecal Coliform				
(5-1 to 9-30)	200/100 ml as a geometric mean			
(10-1 to 4-30)	5,500 as a geometric mean			
Total Residual Chlorine	0.2			0.5
Dissolved Oxygen	not less than 5.0 mg/l			
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is in effect.

**PA0216984**, Sewage, **Shannock Valley General Services Authority**, P. O. Box 157, Yatesboro, PA 16263-0157. This application is for renewal of an NPDES permit to discharge treated sewage from the NuMine STP in Cowanshannock Township, **Armstrong County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as Cowanshannock Creek, which are classified as a WWF with existing and/or potential uses for aquatic life, water supply and recreation. The first downstream potable water supply intake from this facility is the Kittanning Suburban Joint Water Authority on the Allegheny River.

*Outfall 001:* existing discharge, design flow of 0.065 mgd.

<i>Parameter</i>	<i>Concentration (mg/l)</i>			
	<i>Average Monthly</i>	<i>Average Weekly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
CBOD <sub>5</sub>	25			50
Suspended Solids	30			60
Ammonia Nitrogen				
(5-1 to 10-31)	10.0			20.0
(11-1 to 4-30)	25.0			50.0
Fecal Coliform				
(5-1 to 9-30)	200/100 ml as a geometric mean			
(10-1 to 4-30)	7,000/100 ml as a geometric mean			
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is in effect.

**PA0218111**, Sewage, **Conemaugh Township Supervisors**, 1120 Tire Hill Road, Johnstown, PA 15905-7707. This application is for renewal of an NPDES permit to discharge treated sewage from the Tire Hill Wastewater Treatment Plant in Conemaugh Township, **Somerset County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as Stony Creek, which are classified as a WWF with existing and/or potential uses for aquatic life, water supply and recreation. The first downstream potable water supply intake from this facility is the Saltsburg Municipal Water Works on the Conemaugh River.

*Outfall 001:* existing discharge, design flow of 0.45 mgd.

<i>Parameter</i>	<i>Concentration (mg/l)</i>			
	<i>Average Monthly</i>	<i>Average Weekly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
CBOD <sub>5</sub>	25	37.5		50
Suspended Solids	30	45		60
Ammonia Nitrogen				
(5-1 to 10-31)	15	22.5		30
Fecal Coliform				
(5-1 to 9-30)	200/100 ml as a geometric mean			
(10-1 to 4-30)	2,000/100 ml as a geometric mean			
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is in effect.

**PA0252689**, Sewage, **C. Harper Ford**, P. O. Box 748, Belle Vernon, PA 15012. This application is for issuance of an NPDES permit to discharge treated sewage from the C. Harper Autoplex Sewage Treatment Plant in Rostraver Township, **Westmoreland County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as Cedar Creek, which are classified as a TSF with existing and/or potential uses for aquatic life, water supply and recreation. The first downstream potable water supply intake from this facility is the Westmoreland County Municipal Authority.



*Outfall 001: new discharge, design flow of 0.0069 mgd.*

<i>Parameter</i>	<i>Concentration (mg/l)</i>			
	<i>Average Monthly</i>	<i>Average Weekly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
CBOD <sub>5</sub>	25			50
Suspended Solids	30			60
Ammonia Nitrogen (5-1 to 10-31)	14			28
Fecal Coliform (5-1 to 9-30)	200/100 ml as a geometric mean			
(10-1 to 4-30)	2,000/100 ml as a geometric mean			
Total Residual Chlorine	1.4			3.3
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is in effect.

### III. WQM Industrial Waste and Sewerage Applications under The Clean Streams Law (35 P. S. §§ 691.1—691.1001)

*Southeast Region: Water Management Program Manager, 2 East Main Street, Norristown, PA 19401.*

**WQM Permit No. 0904409**, Sewerage, **Department of Conservation and Natural Resources**, 2808 Three Mile Run Road, Perkasie, PA 18944. This proposed facility is in Bedminster and East Rockhill Township, **Bucks County**.

Description of Proposed Action/Activity: Repairs to the existing pump station.

**WQM Permit No. 1500421-F**, Sewerage, **Upper Uwchlan Township**, 140 Pottstown Pike, Chester Springs, PA 19425. This proposed facility is in Upper Uwchlan Township, **Chester County**.

Description of Proposed Action/Activity: Construction and operation of two sewage pump station and an effluent land application system.

**WQM Permit No. 0904410**, Sewerage, **Marie V. Tomlinson**, 1244 Asbury Avenue, Ocean City, NJ 08226. This proposed facility is in Haycock Township, **Bucks County**.

Description of Proposed Action/Activity: Construction and operation of a small flow treatment facility with stream discharge to serve a new single family detached dwelling.

*Southwest Region: Water Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.*

**WQM Permit No. 0478205-A1**, Industrial Waste, **Horsehead Corp.**, 300 Frankfort Road, Monaca, PA 15061. This proposed facility is in Potter Township, **Beaver County**.

Description of Proposed Action/Activity: Application for the modification and operation of the Monaca Smeltzer Wastewater Treatment Plant.

**WQM Permit No. 0404402**, Sewerage, **Shippingport Borough**, P. O. Box 76, Shippingport, PA 15077-0076. This proposed facility is in Shippingport Borough, **Beaver County**.

Description of Proposed Action/Activity: Application for the construction and operation of a sewage treatment plant, sewer and pumping system to serve Shippingport Borough.

**WQM Permit No. 0490403-A3**, Sewerage, **Center Township Sewer Authority**, 224 Center Grange Road, Aliquippa, PA 15001. This proposed facility is in Center Township, **Beaver County**.

Description of Proposed Action/Activity: Application for the upgrade and operation of a sanitary sewer interceptor to serve the Elkhorn Run.

**WQM Permit No. 2604403**, Sewerage, **Fairchance Georges Joint Municipal Sewage Authority**, 141 Big Six Road, Smithfield, PA 15478. This proposed facility is in Georges Township and Fairchance Borough, **Fayette County**.

Description of Proposed Action/Activity: Application for the construction and operation of a sewerage extension and pumping station to serve Route 857 and Mountain Road.

The Pennsylvania Infrastructure Investment Authority (PENNVEST), which administers the Commonwealth's State Revolving Fund, has been identified as a possible funding source. The Department's review of the sewage facilities plan revision has not identified any significant environmental impacts resulting from this proposal.

**WQM Permit No. 5604404**, Sewerage, **Elk Lick Township**, P. O. Box 55, 1507 St. Paul Road, West Salisbury, PA 15565. This proposed facility is in Elk Lick Township, **Somerset County**.

Description of Proposed Action/Activity: Application for the construction and operation of a sanitary sewer system to serve Elk Lick Township.

PENNVEST has been identified as a possible funding source. The Department's review of the sewage facilities plan revision has not identified any significant environmental impacts resulting from this proposal.

**WQM Permit No. 6371408-A2**, Sewerage, **Mid Mon Valley Water Pollution Control Authority**, P. O. Box 197, Allenport, PA 15412. This proposed facility is in Allenport Borough, **Washington County**.

Description of Proposed Action/Activity: Application for the modification and operation of the Mid Mon Valley Sewerage Treatment Plant and Pumping Stations.

PENNVEST has been identified as a possible funding source. The Department's review of the sewage facilities plan revision has not identified any significant environmental impacts resulting from this proposal.

*Northwest Region: Water Management Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481.*

**WQM Permit No. 4304411**, Sewerage, **Bruce M. Shaffer**, 21 Linda Drive, Transfer, PA 16154. This proposed facility is in Pymatuning Township, **Mercer County**.

Description of Proposed Action/Activity: A single residence sewage treatment plant.

**WQM Permit No. 2004406**, Sewerage, **Edward H. and Janet A. Vogt**, 8687 Pepper Road, Fairview, PA 16415. This proposed facility is in Spring Township, **Erie County**.

Description of Proposed Action/Activity: A single residence sewage treatment plant.

**WQM Permit No. 6204406**, Sewerage, **David J. and Jeanette M. Bosko**, 829 Hatch Run Road, Warren, PA 16365. This proposed facility is in Glade Township, **Warren County**.

Description of Proposed Action/Activity: A single residence sewage treatment plant.

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#### **IV. NPDES Applications for Stormwater Discharges from MS4**

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#### **V. Applications for NPDES Waiver Stormwater Discharges from MS4**

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#### **VI. NPDES Individual Permit Applications for Discharges of Stormwater Associated with Construction Activities**

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*Southeast Region: Water Management Program Manager, 2 East Main Street, Norristown, PA 19401.*

<i>NPDES Permit No.</i>	<i>Applicant Name and Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI011504030	Department of General Services Lincoln University Campus Utility System Upgrade 18th and Herr Streets Harrisburg, PA 17125	Chester	Lower Oxford	McDonald Run HQ-TSF-MF
PAI011504031	Richard Wilson Subdivision 300 Lucky Hill Road West Chester, PA 19380	Chester	Honey Brook Township	Unnamed tributary East Branch Brandywine Creek HQ
PAI010904006	QVC Realty Partners Quakertown Veterinary Clinic 2250 North Bethlehem Pike Quakertown, PA 18951	Bucks	Milford Township	Unami Creek HQ

*Northeast Region: Water Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790.*

*Lehigh County Conservation District: Lehigh Ag. Ctr., Suite 102, 4184 Dorney Park Road, Allentown, PA 18104, (610) 391-9583.*

<i>NPDES Permit No.</i>	<i>Applicant Name and Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAS10Q157-R	JDN Land Development Co. 3300 Enterprise Parkway Beachwood, OH 44122	Lehigh	Lower Macungie Township	Little Lehigh Creek HQ-CWF

*Monroe County Conservation District: 8050 Running Valley Road, Stroudsburg, PA 18360, (570) 629-3060.*

<i>NPDES Permit No.</i>	<i>Applicant Name and Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI024504015	Pierce Hardy Ltd. Partnership 1019 Route 519 Eighty-Four, PA 15330-2813	Monroe	Tobyhanna Township	Swiftwater Creek HQ-CWF

*Northampton County Conservation District: Greystone Building, Gracedale Complex, Nazareth, PA 18064-9211, (610) 746-1971.*

<i>NPDES Permit No.</i>	<i>Applicant Name and Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI024804019	Arthur Runquist Acquisition Management, Inc. 2141 Downyflake Lane Allentown, PA 18103	Northampton	Forks Township	Bushkill Creek HQ-CWF

*Southcentral Region: Water Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.*

NPDES Permit  
No.

NPDES Permit No.	Applicant Name and Address	County	Municipality	Receiving Water/Use
PAI033604004	Salisbury Township 5581 Old Philadelphia Pike Gap, PA 17527	Lancaster	Salisbury Township	Pequea Creek HQ-CWF

*Northcentral Region: Water Management Program Manager, 208 West Third Street, Williamsport, PA 17701.*

*Clinton County Conservation District: 650 Leonard Street, Clearfield, PA 16830, (570) 726-3798, Ext. 5.*

NPDES Permit  
No.

NPDES Permit No.	Applicant Name and Address	County	Municipality	Receiving Water/Use
PAI041804001	Wag-Myr Woodlands Inc. 236 Wag-Myr Lane Loganton, PA 17747	Clinton	Greene Township	Fishing Creek HQ
PAI041804002	Dominion Transmission, Inc. 445 West Main Street Clarksburg, WV 26301	Clinton	Leidy, Chapman and E. Keathing Townships	Porter Branch HQ

## VII. List of NOIs for NPDES and/or Other General Permit Types

PAG-12	CAFOs
PAG-13	Stormwater Discharges from MS4

## CAFO Notices of Intent Received

*Southcentral Region: Water Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110, (717) 705-4707.*

**PAG123558**, CAFO, **Jay H. Boll, Hidden Valley Farms**, 1802R Cloverleaf Road, Mount Joy, PA 17552. This proposed facility is in Mount Joy Township, **Lancaster County**.

Description of Size and Scope of Proposed Operation/Activity: Expansion from 447 AEUs to 714 AEUs.

The receiving stream, UNT Little Chickies Creek, is in watershed Chickies/7G and classified for TSF.

The proposed effluent limits for the operation/activity include: Except for the chronic or catastrophic rainfall events defined as over the 25-year/24-hour rain storms, the CAFO general permit is a nondischarge NPDES permit. Where applicable, compliance with 40 CFR Federal effluent limitation guidelines is required. The general permit requires no other numeric effluent limitations and compliance with the Pennsylvania Nutrient Management Act and The Clean Streams Law constitutes compliance with the State narrative water quality standards.

## PUBLIC WATER SUPPLY (PWS) PERMIT

Under the Pennsylvania Safe Drinking Water Act (35 P. S. §§ 721.1—721.17), the following parties have applied for a PWS permit to construct or substantially modify a public water system.

Persons wishing to comment on a permit application are invited to submit a statement to the office listed before the application within 30 days of this public notice. Comments received within the 30-day comment period will be considered in the formulation of the final determinations regarding the application. Comments should include the name, address and telephone number of the writer and a concise statement to inform the Department of Environmental Protection (Department) of the exact basis of a comment and the relevant facts upon which it is based. A public hearing may be held after consideration of comments received during the 30-day public comment period.

Following the comment period, the Department will make a final determination regarding the proposed permit. Notice of this final determination will be published in the *Pennsylvania Bulletin* at which time this determination may be appealed to the Environmental Hearing Board.

The permit application and any related documents are on file at the office listed before the application and are

available for public review. Arrangements for inspection and copying information should be made with the office listed before the application.

Persons with a disability who require an auxiliary aid, service or other accommodations to participate during the 30-day public comment period should contact the office listed before the application. TDD users should contact the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

## SAFE DRINKING WATER

### Applications Received under the Pennsylvania Safe Drinking Water Act

*Southeast Region: Water Supply Management Program Manager, 2 East Main Street, Norristown, PA 19401.*

**Permit No. 1504505**, Public Water Supply.

Applicant	<b>Pure Choice Water</b>
Borough	Honey Brook
Responsible Official	Joe B. Smith 684 Lancaster Avenue New Holland, PA 17557
Type of Facility	Vended Water System
Application Received Date	May 24, 2004

Description of Action	Installation of a new vended water system at Stoltzfus Market.
<i>Southcentral Region: Water Supply Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.</i>	
<b>Permit No. 0104501</b> , Public Water Supply.	
Applicant	<b>R D Partnership</b>
Municipality	Cumberland Township
County	<b>Adams</b>
Responsible Official	Rajendra Engineer, Owner P. O. Box 1182 Chambersburg, PA 17201
Type of Facility	PWS
Consulting Engineer	Janet R. McNally, P. E. William F. Hill & Assoc., Inc. 207 Baltimore St. Gettysburg, PA 17325
Application Received Date	April 13, 2004
Description of Action	Construction of well no. 5.
<b>Permit No. 3104501</b> , Public Water Supply.	
Applicant	<b>Trough Creek State Park Youth Forestry Camp No. 3</b>
Municipality	Todd Township
County	<b>Huntingdon</b>
Responsible Official	Dennis K. Hosler, Civil Engineer Consultant 1401 N. 7th Street P. O. Box 2675 Harrisburg, PA 17105
Type of Facility	PWS
Consulting Engineer	Dennis K. Hosler, P. E. Department of Public Welfare 1401 N. 7th Street P. O. Box 2675 Harrisburg, PA 17105
Application Received Date	May 17, 2004
Description of Action	Construction of a 22,000-gallon finished water storage tank with an in-line booster pump.
<b>Permit No. 2204504</b> , Public Water Supply.	
Applicant	<b>Tulpehocken Spring Water Inc.</b>
Municipality	Gratz Borough
County	<b>Dauphin</b>
Responsible Official	Gary Troutman, Vice President R. R. 1 Box 114T Northumberland, PA 17857
Type of Facility	PWS
Consulting Engineer	Thomas G. Pullar, P. E. P. O. Box 468 Pipersville, PA 18947
Application Received Date	March 26, 2004

Description of Action	Installation of ozone disinfection equipment.
<b>Permit No. 3604509</b> , Public Water Supply.	
Applicant	<b>Borough of Akron</b>
Municipality	Borough of Akron
County	<b>Lancaster</b>
Responsible Official	Daniel Guers, Borough Manager 117 South Seventh Street P. O. Box 130 Akron, PA 17501-0130
Type of Facility	PWS
Consulting Engineer	David T. Lewis, P. E. ARRO Consulting Inc. 270 Granite Run Drive Lancaster, PA 17601
Application Received Date	May 3, 2004
Description of Action	Installation of nitrate treatment to address the nitrate contamination of well no. 8.

#### WATER ALLOCATIONS

**Applications received under the act of June 24, 1939 (35 P. S. §§ 631—641) relating to the acquisition of rights to divert waters of this commonwealth**

*Northwest Region: Water Supply Management Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481.*

**WA 25-1004**, Water Allocations, **Millcreek Township Water Authority**, 3608 West 26th Street, Erie, PA 16506, Millcreek Township, **Erie County**. Application request for 4.26 MGD, peak day withdraw from Lake Erie to provide water for treatment and distribution to its entire service area.

#### LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

##### UNDER ACT 2, 1995

##### PREAMBLE 1

**Acknowledgment of Notices of Intent to Remediate Submitted under the Land Recycling and Environmental Remediation Standards Act (35 P. S. §§ 6026.101—6026.908).**

Sections 302—305 of the Land Recycling and Environmental Remediation Standards Act (act) require the Department of Environmental Protection (Department) to publish in the *Pennsylvania Bulletin* an acknowledgment noting receipt of Notices of Intent to Remediate. An acknowledgment of the receipt of a Notice of Intent to Remediate is used to identify a site where a person proposes to, or has been required to, respond to a release of a regulated substance at a site. Persons intending to use the Background Standard, Statewide Health Standard, the Site-Specific Standard or who intend to remediate a site as a special industrial area must file a Notice of Intent to Remediate with the Department. A Notice of Intent to Remediate filed with the Department provides a brief description of the location of the site, a list of known or suspected contaminants at the site, the proposed remediation measures for the site and a description of the intended future use of the site. A person who demon-

strates attainment of one, a combination of the cleanup standards or who receives approval of a special industrial area remediation identified under the act will be relieved of further liability for the remediation of the site for any contamination identified in reports submitted to and approved by the Department. Furthermore, the person shall not be subject to citizen suits or other contribution actions brought by responsible persons not participating in the remediation.

Under sections 304(n)(1)(ii) and 305(c)(2) of the act, there is a 30-day public and municipal comment period for sites proposed for remediation using a Site-Specific Standard, in whole or in part, and for sites remediated as a special industrial area. This period begins when a summary of the Notice of Intent to Remediate is published in a newspaper of general circulation in the area of the site. For the sites identified, proposed for remediation to a Site-Specific Standard or as a special industrial area, the municipality within which the site is located may request to be involved in the development of the remediation and reuse plans for the site if the request is made within 30 days of the date specified. During this comment period, the municipality may request that the person identified as the remediator of the site develop and implement a public involvement plan. Requests to be involved and comments should be directed to the remediator of the site.

For further information concerning the content of a Notice of Intent to Remediate, contact the environmental cleanup program manager in the Department regional office before which the notice appears. If information concerning this acknowledgment is required in an alternative form, contact the community relations coordinator at the appropriate regional office. TDD users may telephone the Department through the AT&T Relay Service at (800) 654-5984.

The Department has received the following Notices of Intent to Remediate:

*Southeast Region: Environmental Cleanup Program Manager, 2 East Main Street, Norristown, PA 19401.*

**Lot 52 Olmsted**, Pocopson Township, **Chester County**. Eric B. Schmidley, P. G., Apex Environmental, Inc., 269 Great Valley Parkway, Malvern, PA 19355, on behalf of Michael and Myra Evers, 8 Edmondson Dr., West Chester, PA 19382, has submitted a Notice of Intent to Remediate. Lot 52 of the Olmsted development was formerly a fruit orchard. Soil was impacted with residual arsenic from historical use of pesticides. The future use of the site will be a private residence.

*Southcentral Region: Environmental Cleanup Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.*

**I. Auman Machine Co., Inc.**, City of Lebanon, **Lebanon County**. Buchart-Horn, Inc., 445 West Philadelphia Street, York, PA 17404, on behalf of I. Auman Machine Co., Inc., 401 East Spring Street, Lebanon, PA 17042, submitted a Notice of Intent to Remediate soil and/or groundwater that may have been contaminated by suspected drums and/or batteries containing oils and coolants. The intended future use of the property will remain as a machine shop operation.

*Northcentral Region: Environmental Cleanup Program, 208 West Third Street, Williamsport, PA 17701.*

**Corning Asahi Video Products Company**, College Township, **Centre County**. Veolia Water Systems, on behalf of Corning, Inc., HP-ME-02-50 (A2H), Corning, NY 14831, has submitted a Notice of Intent to Remediate soil,

groundwater and surface water contaminated with lead and other inorganic constituents. This site is being remediated to meet the Statewide Health Standards at this time. A summary of this Notice of Intent to Remediate was reported to have been published in the *Centre Daily Times*.

**Wise Foods, Inc.**, Berwick, Berwick Borough, **Columbia County**. Gannett Fleming, Inc., on behalf of Wise Foods, Inc., 228 Raseley Street, Berwick, PA 18603, has submitted a Notice of Intent to Remediate groundwater contaminated with 1,1,1-Trichloroethane, 1,1-Dichloroethane and 1,1-Dichloroethene. This site is being remediated to meet the Statewide Health Standards. A summary of this Notice of Intent to Remediate was reported to have been published in the *Press Enterprise* on April 22, 2004. See additional information in the Actions section of this *Pennsylvania Bulletin*.

**GTE Muncy**, Muncy Township, **Lycoming County**. Manko, Gold, Katcher & Fox, LLP, on behalf of GTE Operations Support, Inc., 600 Hidden Ridge Drive, Irving, TX 75038, has submitted a Remedial Investigation Report, Risk Assessment Report and a Cleanup Plan concerning soil contaminated with chlorinated solvents, fuel oil no. 2, inorganics, leaded gasoline, other organics and unleaded gasoline. This report has been submitted in partial fulfillment of the Site-Specific Standard. A summary of the Remedial Investigation Report, Risk Assessment Report and the Cleanup Plan was reported to have been published in the *Williamsport Sun-Gazette* on April 22, 2004.

*Southwest Region: Environmental Cleanup Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.*

**BP Site 07022**, North Huntingdon Township, **Allegheny County**. Heather Fazekas, 2020 Ardmore Boulevard, Pittsburgh, PA 15221 (on behalf of Nancy Eisaman, Writings on the Wall, 7950 Lincoln Highway, North Huntingdon, PA 15642 and Richard Blackburn, BP Products North America, Inc., 1 West Pennsylvania Ave., Suite 440, Towson, MD 21204) has submitted a Notice of Intent to Remediate soil contaminated with constituents associated with waste oil, diesel fuel and gasoline. The applicant proposes to remediate the site to meet the Statewide Health Standard. A summary of the Notice of Intent to Remediate was reported to have been published in the *Tribune Review* on April 9, 2004.

**Elrama NIKE Site PI-43 (Launcher and Control Facilities)**, Union Township, **Washington County**. John Scrabis, P. E., MACTEC Engineering and Consulting, Inc., 700 North Bell Avenue, Suite 200, Carnegie, PA 15106 (on behalf of Steven R. Lenney, Deputy Commander, United States Army—Charles E. Kelly Support Facility, 6 Lobaugh Street, Oakdale, PA 15071) has submitted a Notice of Intent to Remediate soil contaminated with TCE and arsenic. The applicant proposes to remediate the site to meet the Background Standard for arsenic and Site-Specific Standard for TCE. A summary of the Notice of Intent to Remediate was reported to have been published in the *Observer Reporter* on March 30, 2004.

**Operation Nehemiah/Former Caruso Property**, Wilkinsburg Borough, **Allegheny County**. Christopher Hartigan, The Fourth River Company, 1550 Obey Street, Suite 201, Pittsburgh, PA 15205 (on behalf of Constance Balthrop, 235 Eastgate Drive, Pittsburgh, PA 15235) has submitted a Notice of Intent to Remediate groundwater contaminated with lead, gasoline constituents and

tetrachloroethylene and its products of decomposition. The applicant proposes to remediate the site to meet the Statewide Health Standard. A summary of the Notice of Intent to Remediate was reported to have been published in the *Pittsburgh Post Gazette* on March 14, 2004.

**Reitz No. 4 Site (Former)**, Shade Township, **Allegheny County**. Peter A. Pellissier, P. E., EA Engineering, Science and Technology, Inc., 15 Loveton Circle, Sparks, MD 21152 (on behalf of Alan Comp, AMD&ART, Inc., 411 Third Ave., Johnstown, PA 15906) has submitted a Notice of Intent to Remediate soil and groundwater contaminated with inorganics, other organics, PCBs and PAHs. The applicant proposes to remediate the site to meet the Statewide Health Standard. A summary of the Notice of Intent to Remediate was reported to have been published in the *Tribune-Democrat* on March 28, 2004.

**Proposed Bausman Street Independent Living Property**, City of Pittsburgh, **Allegheny County**. Mary King, Civil & Environmental Consultants, Inc., 333 Baldwin Road, Pittsburgh, PA 15205 (on behalf of Richard Ripley, Ripley & Sons, 1910 South 18th Street, Pittsburgh, PA 15203 and Kevin Hanley, Bauseman Street Independent Living, Inc., 50 South 14th Street, Pittsburgh, PA 15203) has submitted a Notice of Intent to Remediate soil and groundwater contaminated with other organics, inorganics, lead and pesticides. The applicant proposes to remediate the site to meet the Statewide Health Standard.

**Edgewater Street, LTD Property (Former)**, Borough of Oakmont, **Allegheny County**. Charles Haefner, KU Resources, Inc., Business Innovation Center, Suite 207, One Library Place, Duquesne, PA 15110 (on behalf of Maureen Ford, RIDC, 425 Sixth Ave., Suite 500, Pittsburgh, PA 15219) has submitted a Notice of Intent to Remediate soil and groundwater contaminated with lead, heavy metals, solvents and SVOCs. The applicant proposes to remediate the site to meet the Site Specific Standard. A summary of the Notice of Intent to Remediate was reported to have been published in the *Valley News Dispatch* on March 24, 2004.

**Phase II Monessen Riverfront Redevelopment**, City of Monessen, **Westmoreland County**. Alan Halperin, D'Appolonia Engineering, 275 Center Road, Monroeville, PA 15146 (on behalf of Jay Bandieramonte, Redevelopment Authority of the County of Westmoreland, 601 Courthouse Square, Greensburg, PA 15601) has submitted a Notice of Intent to Remediate soil contaminated with fuel oil no 6, inorganics, lead and PAHs. The applicant proposes to remediate the site to meet the Special Industrial Area Requirements. A summary of the Notice of Intent to Remediate was reported to have been published in the *Tribune Review* on February 24 and 29, 2004.

**Franklin Mills Site**, Borough of Franklin, **Cambria County**. Von Eric Fisher, P. G., KU Resources, Inc., One Library Place, Suite 207, Duquesne, PA 15110 (on behalf of Richard McNulty, 1125 Main Street, Johnstown, PA 15909 and John Toth, EMF Development Corp., 365 Bassett Road, Hooversville, PA 15936) has submitted a Notice of Intent to Remediate for this site contaminated with asbestos, PCBs, lead and organics. The applicant proposes to remediate the site to meet Special Industrial Area Requirements. A summary of the Notice of Intent to Remediate was reported to have been published in the *Tribune-Democrat* on March 30, 2004.

*Northwest Region: Environmental Cleanup Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481.*

**National Castings Former**, City of Sharon, **Mercer County**. Deborah Perry, Compliance Env. Services, 2700 Kirila Drive, Hermitage, PA 16148, on behalf of David Grande, Shenango Valley Industrial Development Corp., 41 Chestnut St., Sharon, PA 16146, has submitted a Notice of Intent to Remediate. The site soil and groundwater has been found to be contaminated with chlorinated solvents, diesel fuel, fuel oil nos. 1, 2 and 4—6, inorganics, kerosene, leaded gasoline, lead, MTBE, new motor oil, other organics, PCB, unleaded gasoline and used motor oil. Was reported to be published in the *Sharon Herald* on or about June 12, 2003.

## AIR QUALITY

### PLAN APPROVAL AND OPERATING PERMIT APPLICATIONS

#### NEW SOURCES AND MODIFICATIONS

The Department of Environmental Protection (Department) has developed an "integrated" plan approval, State operating permit and Title V operating permit program. This integrated approach is designed to make the permitting process more efficient for the Department, the regulated community and the public. This approach allows the owner or operator of a facility to complete and submit all the permitting documents relevant to its application one time, affords an opportunity for public input and provides for sequential issuance of the necessary permits.

The Department has received applications for plan approvals and/or operating permits from the following facilities.

Copies of the applications, subsequently prepared draft permits, review summaries and other support materials are available for review in the regional office identified in this notice. Persons interested in reviewing the application files should contact the appropriate regional office to schedule an appointment.

Persons wishing to receive a copy of a proposed plan approval or operating permit must indicate their interest to the Department regional office within 30 days of the date of this notice and must file protests or comments on a proposed plan approval or operating permit within 30 days of the Department providing a copy of the proposed document to that person or within 30 days of its publication in the *Pennsylvania Bulletin*, whichever comes first. Interested persons may also request that a hearing be held concerning the proposed plan approval and operating permit. Comments or protests filed with the Department regional offices must include a concise statement of the objections to the issuance of the Plan approval or operating permit and relevant facts which serve as the basis for the objections. If the Department schedules a hearing, a notice will be published in the *Pennsylvania Bulletin* at least 30 days prior the date of the hearing.

Persons with a disability who wish to comment and require an auxiliary aid, service or other accommodation to participate should contact the regional office identified before the application. TDD users should contact the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

Final plan approvals and operating permits will contain terms and conditions to ensure that the source is constructed and operating in compliance with applicable requirements in 25 Pa. Code Chapters 121—143, the Federal Clean Air Act (act) and regulations adopted under the act.

### PLAN APPROVALS

**Plan Approval Applications Received under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter B that may have special public interest. These applications are in review and no decision on disposition has been reached.**

*Northeast Region: Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711-0790; Mark Wejkszner, New Source Review Chief, (570) 826-2531.*

**48-399-054: Spray-tek LLC** (3010 Avenue B, Bethlehem, PA 18017) for construction of a spray dryer and associated air cleaning devices at their facility in Bethlehem, **Northampton County**.

*Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110; Ronald Davis, New Source Review Chief, (717) 705-4702.*

**06-05066D: Exide Technologies** (Spring Valley Road and Nolan Street, Reading, PA 19605) for modification of the four secondary lead furnaces controlled by afterburners, fabric collectors and four wet scrubbers in the Borough of Laureldale and Muhlenberg Township, **Berks County**. The sources are subject to 40 CFR Part 63, National Emission Standards for Hazardous Air Pollutants from Secondary Lead Smelters.

**22-03055A: Kimmel's Coal and Packaging** (Machamer Avenue, P. O. Box 1, Wiconisco, PA 17097) for replacing the fluidized bed dryer with a rotary dryer and changing the venting of two baghouses at its coal preparation facility in Wiconisco Township, **Dauphin County**.

*Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701; David Aldenderfer, Program Manager, (570) 327-3637.*

**17-314-001F: Sensus Metering Systems—North America, Inc.** (805 Liberty Boulevard, DuBois, PA 15801) for installation of an air cleaning device (a fiber bed oil mist eliminator system) on three existing rubber diaphragm drying/curing ovens in the City of DuBois, **Clearfield County**.

*Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481; Devendra Verma, New Source Review Chief, (814) 332-6940.*

**37-290C: Industrial Concerns, Inc.** (526 South Jefferson Street, New Castle, PA 16101) for a minor modification of a plan approval to use two torches at a scrap metal operation in the City of New Castle, **Lawrence County**.

**Intent to Issue Plan Approvals and Intent to Issue or Amend Operating Permits under the Air Pollution Control Act and 25 Pa. Code Chapter 127, Subchapter B. These actions may include the administrative amendments of an associated operating permit.**

*Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401; Thomas McGinley, New Source Review Chief, (484) 250-5920.*

**09-0035C: En Pro Industries, Inc.—Plastomer Technologies** (23 Friends Lane, Newtown, PA 18940-1803) for construction of a Teflon etching process at their existing facility in Newtown Township, **Bucks County**. This facility is a non-Title V facility. A thermal oxidizer will control the ammonia fumes collected from the etching process. The Plan Approval will also contain recordkeep-

ing, operating and testing requirements designed to keep the facility operating within the allowable emission requirements and all applicable air quality requirements.

**15-0004E: Reynolds Metals Co.—Alcoa Flexible Packaging** (520 Lincoln Avenue, Downingtown, PA 19335) for modification of their no. 9 rotogravure press and the recuperative catalytic oxidizer in the Borough of Downingtown, **Chester County**.

Under 25 Pa. Code §§ 127.44(a) and 127.424(b), the Department intends to issue a Plan Approval for their plant in the Borough of Downingtown, Chester County. This plan approval will authorize the applicant to modify their no. 9 rotogravure press and the recuperative catalytic oxidizer, as described in the applicant's application of December 22, 2003. The Plan Approval will subsequently be incorporated into the company's Title V Operating Permit through an administrative amendment in accordance with 25 Pa. Code § 127.450.

Based on the information provided by the applicant and the Department's own analysis, the no. 9 rotogravure press and recuperative catalytic oxidizer will emit 34.0 tons of VOCs per year and 10.5 tons of NOx per year.

Copies of the application, the Department's analysis and other documents used in the evaluation are available for public inspection between 8 a.m. and 4 p.m. weekdays at the following address. To make an appointment, contact Records Management, (484) 250-5910.

Individuals wishing to provide the Department with additional information they believe should be considered may submit the information to the following address. Comments must be received by the Department within 30 days of publication. Written comments should include the name, address and telephone number of the person submitting comments, identification of proposed Plan Approval PA-15-0004E and a concise statement regarding the relevancy of the information or any objections to issuance of the Plan Approval.

A public hearing may be held, if the Department, in its discretion, decides that a hearing is warranted on the comments received during the public comment period. Persons submitting comments or requesting a hearing will be notified of the decision to hold a hearing by publication in a local newspaper of general circulation, the *Pennsylvania Bulletin* or by telephone, when the Department determines notification by telephone is sufficient. Written comments or requests for a public hearing should be directed to Francine Carlini, Regional Air Quality Manager, Department of Environmental Protection, Southeast Regional Office, 2 East Main Street, Norristown, PA 19401, (484) 250-5920.

*Northeast Region: Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711-0790; Mark Wejkszner, New Source Review Chief, (570) 826-2531.*

**40-305-025: Stockton Anthracite LP** (P. O. Box 546, Hazleton, PA 18201-0039) for installation and operation of an anthracite coal refuse crushing and screening plant at their facility in Hazle Township, **Luzerne County**. The operation involves processing the culm material to meet market specifications, disposal of the reject material onsite for final reclamation and revegetation of all disturbed areas. This facility is a non-Title V facility, subject to the requirement of Part 60 Standards of Performance for New Stationary Sources and Subpart Y for Coal Preparation Plants. Fugitive dust will be controlled by the water spray system to the extent that the operation will have no fugitive dust. The company will monitor and visually inspect the process daily during operating hours

to ensure all wet suppression equipment is working properly. Any defects will be corrected immediately and the equipment will be operated as per vendor's specifications to assure the compliance with Department regulations.

**48-313-092: Praxair Distribution, Inc.** (145 Shimersville Road, Bethlehem, PA 18015) for construction of a nitric oxide generation plant and associated air cleaning device (packed bed scrubber) at their facility in the City of Bethlehem, **Northampton County**. The facility is a non-Title V (State-only) facility. The operation of the nitric oxide generation plant and associated packed bed scrubber will result in 0.0954 ton per year of nitric oxide emissions. The plan approval and operating permit will include monitoring, reporting and recordkeeping requirements designed to keep the sources operating within all applicable air quality requirements.

*Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110; Ronald Davis, New Source Review Chief, (717) 705-4702.*

**01-05016F: ISP Minerals, Inc.** (P. O. Box O, 1455 Old Waynesboro Road, Blue Ridge Summit, PA 17214-0914) for installation of a portable dryer and associated conveyors controlled by a portable fabric filter baghouse at their Charmian Facility in Hamiltonban Township, **Adams County**. This will result in an actual increase in emissions of 16 tpy of NOx, 2.6 tpy of CO and less than 1.0 tpy each of VOC, SOx and PM. This plan approval will include monitoring, recordkeeping and reporting requirements designed to keep the sources operating within all applicable air quality requirements.

**06-05079B: United Corstack, LLP** (720 Laurel Street, Reading, PA 19602) for changing NOx emission limits when burning no. 2 fuel oil in boiler no. 1 at their facility in the City of Reading, **Berks County**. The plan approval will include monitoring, recordkeeping and reporting requirements designed to keep the sources operating within all applicable air quality requirements.

**22-05003A: Stroehmann Bakeries, LC** (3996 Paxton Street, Harrisburg, PA 17111) for replacement of a catalytic oxidizer which controls VOC emissions from the ovens at their Capitol Bakery in Swatara Township, **Dauphin County**. The replacement will not impact emissions from the facility. The State-only operating permit will contain emissions limits and stack testing provisions along with recordkeeping, reporting and monitoring requirements to ensure the facility complies with the applicable air quality regulations.

**36-03019A: Flury Foundry Co.** (1160 Elizabeth Avenue, Lancaster, PA 17601) for construction of a molding line controlled by a fabric filter in Manheim Township, **Lancaster County**. The potential-to-emit from this operation is 1.9 tpy of PM10 and 2 tpy of VOCs. The plan approval and State-only operating permit will include restrictions, monitoring, work practice standards, recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements.

*Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701; Richard Maxwell, New Source Review Chief, (570) 327-3637.*

**59-00004C: Ward Manufacturing, Inc.** (P. O. Box 9, Blossburg, PA 16912) for installation of an air cleaning device, a fabric collector, on an iron melting cupola at the company's foundry facility on Gulick Street in Blossburg Borough, **Tioga County**.

The respective facility is a major facility for which Title V Operating Permit 59-00004 has been issued.

The proposed fabric collector will replace an existing scrubber. It is expected that the installation of the fabric collector will significantly reduce the cupola's emission of PM and lead from the levels now existing. The emission of SOx from the cupola is, however, expected to increase by as much as 11.09 tons per year.

Ward Manufacturing has additionally requested plan approval to transfer the control of PM emissions created by a material transfer point in the facility's casting shakeout and sand handling system from one existing fabric collector to another. No change in the type or quantity of air contaminant emissions will occur as a result of this transfer.

The Department's review of the information submitted by Ward Manufacturing indicates that following the installation of the fabric collector, the cupola will meet all applicable air quality requirements pertaining to air contamination sources and the emission of air contaminants, including the fugitive air contaminant emission requirements of 25 Pa. Code § 123.1, the PM emission requirements of 25 Pa. Code § 123.13, the SOx emission requirements of 25 Pa. Code § 123.21 and the visible air contaminant emission requirements of 25 Pa. Code § 123.41. Additionally, it is expected that the fabric collector will allow the cupola to comply with the requirements of Subpart EEEE of the National Emission Standards for Hazardous Air Pollutants for Source Categories, 40 CFR 63.7680–63.7765, when Ward Manufacturing is required to do so on April 23, 2007.

The Department's review of the information submitted by Ward Manufacturing also indicates that following the transfer of control of the PM emitted from the material transfer point previously discussed from one existing fabric collector to another, the respective material transfer point will comply with all applicable air quality requirements pertaining to air contamination sources and the emission of air contaminants, including the fugitive air contaminant emission requirements of 25 Pa. Code § 123.1, the PM emission requirements of 25 Pa. Code § 123.13 and the best available technology requirements of 25 Pa. Code §§ 127.1 and 127.12.

Based on the previous findings, the Department intends to issue plan approval for the installation of the proposed fabric collector, the "modification" of the cupola caused by the resultant increase in SOx emissions and the transfer of air contaminant emission control of the material transfer point from one fabric collector to another. Additionally, if the Department determines that the cupola is operating in compliance with all applicable plan approval conditions and regulatory requirements following the installation of the fabric collector and the material transfer point is doing the same following the transfer of PM emission control from one existing fabric collector to another, the conditions established in the plan approval will be incorporated into Title V Operating Permit 59-00004 through administrative amendment under 25 Pa. Code § 127.450.

The following is a summary of the conditions the Department proposes to place in the plan approval to be issued to ensure compliance with all applicable regulatory requirements:

1. The cupola fabric collector shall be equipped with a broken bag detection system.



2. The cupola fabric collector shall be equipped with instrumentation to continuously monitor the collector's inlet temperature.

3. The cupola fabric collector shall be equipped with instrumentation to continuously monitor the differential pressure across the collector.

4. The air compressor used to supply compressed air to the cupola fabric collector shall be equipped with an air dryer and oil trap.

5. Spare bags shall be kept onsite for the cupola fabric collector.

6. Within 120 days of completing the installation of the cupola fabric collector, stack testing shall be performed to determine the PM emission rate. At the same time, Method 9 opacity observations shall be made to determine the opacity of the visible air contaminant emissions.

7. The permittee shall comply with all applicable requirements of Subpart EEEE of the National Emission Standards for Hazardous Air Pollutants for Source Categories, 40 CFR 63.7680–63.7765, in accordance with the schedule as is specified therein.

8. If upon completion of installation of the cupola fabric collector and/or the transfer of PM control for the material transfer point from one existing fabric collector to another, there is a conflict between the terms and conditions of the plan approval and any terms and conditions contained in Title V Operating Permit 59-00004 which apply to the respective sources, the source or sources shall be operated under the terms and conditions of this plan approval rather than the conflicting terms and conditions contained in the Title V operating permit.

*Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481; Devendra Verma, New Source Review Chief, (814) 332-6940.*

**61-193D: National Fuel Gas Supply Corp** (Township Route 300, Stoneboro, PA 16153) for modification of the requirements to reflect the total VOC emission rate and change the minimum operating temperature range of thermal oxidizer to 1,300°F at the Henderson Station in Mineral Township, **Venango County**.

In accordance with 25 Pa. Code §§ 127.44(b) and 127.424(b), the Department intends to issue a plan approval to modify Plan Approval 61-193C to modify the requirements to reflect the total VOC emission rate and change the minimum operating temperature range of thermal oxidizer to 1,300°F at the Henderson Station in Mineral Township, Venango County. This plan approval revises the VOC emission limit from 0.165 lb/hr to 0.24 lb/hr and will include monitoring, work practice standards and recordkeeping conditions and other requirements to ensure the source is operated in compliance with 25 Pa. Code Chapters 121–143 and the requirements of the Federal Clean Air Act. This plan approval will, in accordance with 25 Pa. Code § 127.450, be incorporated into a State Only Operating Permit through an administrative amendment at a later date. Issuance of the plan approval is recommended with the appropriate conditions in the plan approval.

**16-094A: IA Construction Corp.** (Route 66, Shippenville, PA 16254) for modification of Plan Approval 16-303-00003 to allow for firing the rotary dryer burner with no. 2 oil, liquid propane or natural gas at their Clarion Plant in Paint Township, **Clarion County**.

In accordance with 25 Pa. Code §§ 127.44(b) and 127.424(b), the Department intends to issue a plan

approval to modify Plan Approval 16-303-00003 to allow for firing the rotary dryer burner with no. 2 oil, liquid propane or natural gas at the Clarion Plant in Paint Township, Clarion County. This plan approval will require emission tests, restrict the production at the plant to 495,000 tons per year, require additional monitoring, reporting and recordkeeping conditions and other requirements to ensure the source is operated in compliance with 25 Pa. Code Chapters 121–143 and the requirements of the Federal Clean Air Act. This plan approval will, in accordance with 25 Pa. Code § 127.450, be incorporated into a State Only Operating Permit through an administrative amendment at a later date. Issuance of the plan approval is recommended with the appropriate conditions in the plan approval.

**20-295A: Baillie Lumber Co., L. P.** (SR 27, Titusville, PA 16354-0292) for installation of a wood fired boiler in Oil Creek Township, **Crawford County**.

In accordance with 25 Pa. Code §§ 127.44(b) and 127.424(b), the Department intends to issue a plan approval to install a wood fired boiler in Oil Creek Township, Crawford County. This plan approval, will, in accordance with 25 Pa. Code § 127.450, be incorporated into a State Only operating permit through an administrative amendment at a later date. Issuance of the plan approval is recommended with the appropriate conditions in the plan approval:

1. This source is subject to 25 Pa. Code §§ 123.1, 123.31 and 123.41 for fugitive, odor and visible emissions, respectively.

2. Visible air contaminants shall not be emitted in a manner so that the opacity of the emissions is equal to or greater than 20% for a period or periods aggregating more than 3 minutes in any 1 hour; or equal to or greater than 60% at any time.

3. The facility shall be permitted to use only hardwood sawdust and/or chips to fire the boiler.

4. The particulate emissions shall not exceed 0.2 #/mmBtu. The maximum heat input of the boiler shall not exceed 28.1 mmBtu/hr.

5. A continuous chart recorder for steam output, pressure and feed bin axle revolutions per minute shall be installed on the boiler. The records shall be kept on file for 5 years and shall be made available to the Department personnel upon request.

6. A magnehelic gauge shall be installed to measure the pressure drop across the multiple cyclone control device.

7. The source will be subject to 40 CFR 60.48c Subpart Dc.

#### OPERATING PERMITS

##### **Intent to Issue Title V Operating Permits under the Air Pollution Control Act and 25 Pa. Code Chapter 127, Subchapter G.**

*Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401; Edward Jurdones Brown, Facilities Permitting Chief, (484) 250-5920.*

**23-00025: Fibre-Metal Products Co.** (US Route 1, Brinton Lake Road, Concordville, PA 19331) for renewal of their Title V Operating Permit in Concord Township, **Delaware County**. The initial permit was issued on August 11, 1999. The facility manufactures personal safety equipment. As a result of potential emissions of VOCs, the facility is a major stationary source as defined in Title I, Part D of the Clean Air Act Amendments and is

therefore subject to the Title V permitting requirements adopted in 25 Pa. Code Chapter 127, Subchapter G. No changes have taken place at the facility since the permit was issued in 1999. The facility is not subject to Compliance Assurance Monitoring under 40 CFR Part 64. The renewal contains all applicable requirements including monitoring, recordkeeping and reporting.

*Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110; Ronald Davis, New Source Review Chief, (717) 705-4702.*

**36-05117: Dart Container Corp. of PA** (110 Pitney Road, Lancaster, PA 17602) for operation of an expandable polystyrene cup manufacturing facility controlled by two boilers in East Lampeter Township, **Lancaster County**. The facility is a Title V facility with the potential to emit VOCs in the amount of 313.97 tpy. The facility is subject to 25 Pa. Code Chapter 127, Subchapter E and has purchased VOC emission reduction credits to offset the potential emissions. The operations of the two boilers are subject to 40 CFR Part 60, Subpart Dc—Standards of Performance for Small Industrial-Commercial-Institutional Steam Generating Units. The operating permit will include restrictions, monitoring, testing, work practice standards and recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements.

**67-05030: C-P Converters, Inc.** (15 Grumbacher Road, York, PA 17402-9417) for a Title V Operating Permit Renewal in Manchester Township, **York County**. The facility's major sources of emissions include flexographic presses controlled by permanent total enclosures and incinerators which primarily emit VOCs. The Title V operating permit will contain monitoring, recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements.

#### **Intent to Issue Operating Permits under the Air Pollution Control Act and 25 Pa. Code Chapter 127, Subchapter F.**

*Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110; Ronald Davis, New Source Review Chief, (717) 705-4702.*

**07-05038: Federal Carbide Co.** (One Eagle Ridge Road, Tyrone, PA 16686) for operation of their manufacturing facility in the Township of Snyder, **Blair County**. This is a non-Title V (State Only) facility. Potential volatile organic emissions at the facility are 66 tons per year. The facility-wide (State Only) operating permit will limit VOC emissions to less than 50 tons per year. The State Only operating permit shall contain testing, monitoring, recordkeeping and reporting requirements, emission restrictions and work practice standards designed to keep the facility operating within all applicable air quality requirements.

*Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481; Eric Gustafson, Facilities Permitting Chief, (814) 332-6940.*

**62-00150: Superior Tire and Rubber Corp.** (1818 Pennsylvania Avenue, Warren, PA 16365) for a Synthetic Minor Permit to operate a tire and inner tube manufacturing facility in City of Warren, **Warren County**. The significant emitting sources are boilers, space heaters, spray booths, molding process, burn off oven and shot blasting booth. This facility has taken a restriction on emission of single HAPs less than 10 tons per year and multiple HAPs less than 25 tons per year.

**20-00263: The Tapco Tube Co.** (10748 South Water Street Extension, Meadville, PA 16335) for a Natural Minor operating permit for emissions from the surface coating of fabricated metal parts. Their facility is in West Mead Township, **Crawford County**.

*Department of Public Health, Air Management Services: 321 University Avenue, Philadelphia, PA 19104; Edward Braun, Chief, (215) 823-7584.*

**S03-007: Regal Corrugated Box** (Adams Avenue and Ashland Street, Philadelphia, PA 19124) for operation of a corrugated board manufacturing facility in the City of Philadelphia, **Philadelphia County**. The facility's air emissions sources include a 400 HP boiler and a 500 HP boiler, corrugating, combining, converting and finishing processes, starch and paper handling and two gasoline tanks with dispensers. The facility's air emission control devices include a cyclone and dust collector.

The operating permit will be reissued under 25 Pa. Code, Philadelphia Code Title 3 and Air Management Regulation XIII. Permit copies and other supporting information are available for public inspection at AMS, 321 University Avenue, Philadelphia, PA 19104. For further information, contact Edward Wiener, (215) 685-9426.

Persons wishing to file protests or comments on the operating permit must submit the protests or comments within 30 days from the date of this notice. Protests or comments filed with the AMS must include a concise statement of the objections to the permit issuance and the relevant facts upon which the objections are based. Based upon the information received during the public comment period, the AMS may modify the operating permit or schedule a public hearing. The hearing notice will be published in the *Pennsylvania Bulletin* and a local newspaper at least 30 days before the hearing.

### **COAL AND NONCOAL MINING ACTIVITY APPLICATIONS**

Applications under the Surface Mining Conservation and Reclamation Act (52 P. S. §§ 1396.1—1396.19a); the Noncoal Surface Mining Conservation and Reclamation Act (52 P. S. §§ 3301—3326); The Clean Streams Law (35 P. S. §§ 691.1—691.1001); the Coal Refuse Disposal Control Act (52 P. S. §§ 30.51—30.66); and The Bituminous Mine Subsidence and Land Conservation Act (52 P. S. §§ 1406.1—1406.21). Mining activity permits issued in response to applications will also address the applicable permitting requirements of the following statutes: the Air Pollution Control Act (35 P. S. §§ 4001—4015); the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27); and the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003).

The following permit applications to conduct mining activities have been received by the Department of Environmental Protection (Department). A copy of an application is available for inspection at the district mining office indicated before an application. Where a 401 Water Quality Certification is needed for any aspect of a particular proposed mining activity, the submittal of the permit application will serve as the request for certification.

Written comments, objections or requests for informal conferences on applications may be submitted by any person or any officer or head of any Federal, State or local government agency or authority to the Department at the district mining office indicated before an application within 30 days of this publication, or within 30 days after the last publication of the applicant's newspaper advertisement, as provided by 25 Pa. Code §§ 77.121—77.123 and 86.31—86.34.

Where any of the mining activities listed will have discharges of wastewater to streams, the Department will incorporate NPDES permits into the mining activity permits issued in response to these applications. NPDES permits will contain, at a minimum, technology-based effluent limitations as identified in this notice for the respective coal and noncoal applications. In addition, more restrictive effluent limitations, restrictions on discharge volume or restrictions on the extent of mining which may occur will be incorporated into a mining activity permit, when necessary, for compliance with water quality standards (in accordance with 25 Pa. Code Chapters 93 and 95). Persons or agencies who have requested review of NPDES permit requirements for a particular mining activity within the previously mentioned public comment period will be provided with a 30-day period to review and submit comments on the requirements.

<i>Parameter</i>	<i>30-Day Average</i>	<i>Daily Maximum</i>	<i>Instantaneous Maximum</i>
Iron (total)	3.0 mg/l	6.0 mg/l	7.0 mg/l
Manganese (total)	2.0 mg/l	4.0 mg/l	5.0 mg/l
Suspended solids	35 mg/l	70 mg/l	90 mg/l
pH*		greater than 6.0; less than 9.0	
Alkalinity greater than acidity*			

\* The parameter is applicable at all times.

A settleable solids instantaneous maximum limit of 0.5 ml/l applied to: (1) surface runoff (resulting from a precipitation event of less than or equal to a 10-year 24-hour event) from active mining areas, active areas disturbed by coal refuse disposal activities and mined areas backfilled and revegetated; and (2) drainage (resulting from a precipitation event of less than or equal to a 1-year 24-hour event) from coal refuse disposal piles.

*Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901-2454, (570) 621-3118.*

**22041301. Ladnar, Inc.** (1165 Trail Road, Hummelstown, PA 17036), commencement, operation and restoration of an anthracite underground mine operation in Williams Township, **Dauphin County**, affecting 1.1 acres. Receiving streams: Bear Creek. Application received May 26, 2004.

*California District Mining Office: 25 Technology Drive, California Technology Park, Coal Center, PA 15423, (724) 769-1100.*

**30841307 and NPDES Permit No. PA0213438. RAG Emerald Resources, LP** (P. O. Box 1020, 158 Portal Road, Waynesburg, PA 15370), to revise the permit for the Emerald Mine No. 1 in Franklin and Whiteley Townships, **Greene County**, to install 15 ventilation boreholes. Surface Acres Proposed 4.27. No additional discharges. Application received May 17, 2004.

*Greensburg District Mining Office: Armbrust Building, R. R. 2 Box 603-C, Greensburg, PA 15601-0982, (724) 925-5500.*

**02823014 and NPDES Permit No. PA0617661. Xecol Corporation** (200 Marshall Road, Coraopolis, PA 15108), application for renewal of NPDES permit to continue mine drainage treatment in Robinson Township, **Allegheny County**, affecting 72 acres. Receiving streams: Campbells Run to Chartiers Creek (WWF). There is no

Written comments or objections should contain the name, address and telephone number of the person submitting comments or objections; the application number; and a statement of sufficient detail to inform the Department on the basis of comment or objection and relevant facts upon which it is based. Requests for an informal conference must contain the name, address and telephone number of requestor; the application number; a brief summary of the issues to be raised by the requestor at the conference; and a statement whether the requestor wishes to have the conference conducted in the locality of the proposed mining activities.

#### *Coal Applications Received*

*Effluent Limits*—The following coal mining applications that include an NPDES permit application will be subject to, at a minimum, the following technology-based effluent limitations for discharges of wastewater to streams:

potable water supply intake within 10 miles from the point of discharge. Renewal application received June 1, 2004.

**63823020 and NPDES Permit No. PA0616621. Robert B. Goodall** (725 Midway Candor Road, Bulger, PA 15019), renewal application for continued mining of an existing bituminous surface mine in Robinson Township, **Washington County**, affecting 39 acres. Receiving streams: unnamed tributary to Little Racoon Creek (WWF). There is no potable water supply intake within 10 miles from the point of discharge. Renewal application received June 3, 2004.

*Moshannon District Mining Office: 186 Enterprise Drive, Philipsburg, PA 16866, (814) 342-8200.*

**17714022 and NPDES Permit No. PA0611034. A. W. Long Coal Company** (1203 Presqueisle Street, Philipsburg, PA 16866), renewal of an existing bituminous surface mine permit in Morris Township, **Clearfield County**, affecting 149.6 acres. Receiving streams: Hawk Run to Moshannon Creek and Moshannon Creek to West Branch Susquehanna River to Susquehanna River. Application received May 10, 2004.

**17990111 and NPDES Permit No. PA0238341. Larry D. Baumgardner Coal Company, Inc.** (P. O. Box 186, Lanse, PA 16849), renewal of an existing bituminous surface mine permit in Decatur Township, **Clearfield County**, affecting 93.3 acres. Receiving streams: Laurel Run to Moshannon Creek to West Branch Susquehanna River. Application received May 28, 2004.

#### *Noncoal Applications Received*

*Effluent Limits*—The following noncoal mining applications that include an NPDES permit application will be subject to, at a minimum, the following technology-based effluent limitations for discharges of wastewater to streams:

<i>Parameter</i>	<i>30-Day Average</i>	<i>Daily Maximum</i>	<i>Instantaneous Maximum</i>
Suspended solids	35 mg/l	70 mg/l	90 mg/l
pH*		greater than 6.0; less than 9.0	

\* The parameter is applicable at all times.

A settleable solids instantaneous maximum of 0.5 ml/l applied to surface runoff resulting from a precipitation event. If coal will be extracted incidental to the extraction of noncoal minerals, at a minimum, the technology-based effluent limitations identified under coal applications will apply to discharges of wastewater to streams.

*Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901-2454, (570) 621-3118.*

**28990301C2 and NPDES Permit No. PA0223981. Fayetteville Contractors, Inc.** (P. O. Box FCI, Fayetteville, PA 17222), renewal of NPDES permit for discharge of treated mine drainage in Antrim Township, **Franklin County**. Receiving streams: unnamed tributary to Muddy Run and Muddy Run (CWF). Application received June 1, 2004.

*Moshannon District Mining Office: 186 Enterprise Drive, Philipsburg, PA 16866, (814) 342-8200.*

**08040805. David B. Williams** (R. R. 2, Box 197, Kingsley, PA 18826), commencement, operation and restoration of a small industrial minerals (bluestone) permit in Rome Township, **Bradford County**, affecting 3 acres. Receiving streams: unnamed tributary to Parks Creek. Application received May 5, 2004.

**41040802. Howling Hills Enterprises** (1900 Trout Run Mountain Road, Trout Run, PA 17771), commencement, operation and restoration of a small industrial minerals (bluestone) permit in Lewis Township, **Lycoming County**, affecting 5 acres. Receiving streams: Lycoming Creek. Application received May 5, 2004.

**08040806. Walter A. Dickerson** (R. D. 3, Box 253A, Gillett, PA 16925), commencement, operation and restoration of a small industrial minerals (shale) permit in Ridgebury Township, **Bradford County**, affecting 1.5 acres. Receiving streams: Bentley Creek. Application received May 14, 2004.

## FEDERAL WATER POLLUTION CONTROL ACT, SECTION 401

The following permit applications, requests for Environmental Assessment approval and requests for 401 Water Quality Certification have been received by the Department of Environmental Protection (Department). Section 401 of the Federal Water Pollution Control Act (FWPCA) (33 U.S.C.A. § 1341) requires the State to certify that the involved projects will not violate the applicable provisions of sections 301—303, 306 and 307 of the FWPCA (33 U.S.C.A. §§ 1311—1313, 1316 and 1317) as well as relevant State requirements. Persons objecting to approval of a request for certification under section 401 of the FWPCA or to the issuance of a Dam Permit, Water Obstruction and Encroachment Permit or the approval of an Environmental Assessment must submit comments, suggestions or objections within 30 days of the date of this notice, as well as questions, to the regional office noted before the application. Comments should contain the name, address and telephone number of the person commenting, identification of the certification request to which the comments or objections are addressed and a concise statement of comments, objections or suggestions including the relevant facts upon which they are based.

The Department may conduct a fact-finding hearing or an informal conference in response to comments if deemed necessary. Individuals will be notified, in writing, of the time and place of a scheduled hearing or conference concerning the certification request to which the comment, objection or suggestion relates. Maps, drawings and other data pertinent to the certification request are available for inspection between 8 a.m. and 4 p.m. on each working day at the regional office noted before the application.

Persons with a disability who wish to attend a hearing and require an auxiliary aid, service or other accommodation to participate in the proceedings should contact the specified program. TDD users should contact the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

**Applications received under the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27) and section 302 of the Flood Plain Management Act (32 P. S. § 679.302) and requests for certification under section 401 of the FWPCA (33 U.S.C.A. § 1341(a)).**

## WATER OBSTRUCTIONS AND ENCROACHMENTS

*Southeast Region: Water Management Program Manager, 2 East Main Street, Norristown, PA 19401.*

**E15-719. Department of Transportation, District 6**, 7000 Geerdes Blvd., King of Prussia, PA 19406, West Marlborough Township, **Chester County**, ACOE Philadelphia District.

Speckmans No. 1 Buck Run Covered Bridge Rehabilitation Project to rehabilitate and maintain an existing composite steel girder-wooden deck bridge by replacing the burr-arch truss, timber superstructure and abutments with new steel beam floors, concrete reinforced substructures and reinforced concrete wingwalls. The proposed structure, which spans approximately 74.4 feet over the Buck Run (TSF, MF) is approximately 17.5 feet wide with a 3.94-foot underclearance. The work will involve the following:

1. To construct a temporary cofferdam within the stream to accommodate dewatering activities.
2. To conduct excavation and back filling of approximately 8.0 cubic yards of streambed to facilitate pier and pier footings removal activities.
3. To conduct excavation and back filling of approximately 7.0 cubic yards within the floodway to accommodate new concrete wingwalls, abutments and retaining walls.
4. To conduct back filling and grading of approximately 2.0 cubic yards to facilitate roadway approach widening and finish grading.
5. To construct a temporary road crossing under the provisions of GP-8 provisions to accommodate construction activities.
6. To place approximately 250 cubic yards of riprap scour protection at designated positions along the bridge abutment footings.

The project proposes to temporarily affect approximately 100 linear feet of stream length and permanently affect an approximate total of 84 linear feet of stream. The site spans from the centerline of the Buck Run with East Fallowfield Township on the north side and West Marlborough Township on the south side. It is situated approximately 65 feet north of the intersection of Covered Bridge and Frog Hallow Roads in Chester County (Coatesville, PA Quadrangle N: 9.86 inches; W: 10.16 inches).

*Northeast Region: Water Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790.*

**E35-375. Development Options, Inc. c/o CBL and Associates Properties, Inc.,** 800 South Street, Waltham, MA 02453 in Dickson City Borough, **Lackawanna County**, U. S. Army Corps of Engineers, Baltimore District.

To place fill in 0.75 acre of PEM/SS wetlands in 0.60 acre of shallow bodies of water, within the drainage basin of the Lackawanna River (HQ-CWF), for the purpose of constructing a retail shopping complex known as City Line Market Place. The project is along the Viewmont Drive Commercial Corridor (Scranton, PA Quadrangle N: 15.2 inches; W: 2.7 inches).

**E40-636. Louis and Carmella Sebastian,** R. R. 3, Box 87, Harveys Lake, PA 18618 in Harveys Lake Borough, **Luzerne County**, U. S. Army Corps of Engineers, Baltimore District.

To modify and maintain an existing box structure in Harveys Lake (HQ-CWF), expanding the area coverage from approximately 1,070 square feet to 2,070 square feet. As modified, the structure has overall dimensions of approximately 50 feet (lakeward) by 45 feet. The project is at Pole 275 along Lakeside Drive (Harveys Lake, PA Quadrangle N: 18.5 inches; W: 6.2 inches).

**E48-350. Department of Conservation and Natural Resources, Bureau of State Parks,** P. O. Box 8451, Harrisburg, PA 17105-8451 in City of Easton, **Northampton County**, U. S. Army Corps of Engineers, Philadelphia District.

To remove the existing structures and to construct and maintain a visitor center and associated parking areas in the 100-year floodplain of the Delaware River (WWF, MF) at the site of the former Canal Museum. The project is in Delaware Canal State Park, southwest of the confluence of the Lehigh and Delaware Rivers (Easton, PA-NJ Quadrangle N: 12.0 inches; W: 11.7 inches).

*Northcentral Region: Water Management Program Manager, 203 West Third Street, Suite 101, Williamsport, PA 17701.*

**E19-243. Honeysuckle Student Holdings, Inc.,** Kehr Union, Suite 350, 400 East Second Street, Bloomsburg, PA 17815. Honeysuckle Apartments project in the Town of Bloomsburg, **Columbia County**, ACOE Baltimore District (Bloomsburg, PA Quadrangle N: 1.9 inches; W: 10.1 inches).

The applicant proposes to construct a 536-bed student housing complex to replace an existing apartment complex and to permanently fill a 0.1-acre PEM wetland area tributary to Fishing Creek (WWF, perennial). A \$1,000 contribution to the Pennsylvania Wetland Replacement Project is proposed as compensation for the wetland impact.

*Southwest Region: Water Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.*

**E65-848. Han G. Van Snik and Coby G. Van Snik,** 5139 Mamont Road, Murrysburg, PA 15668-9323. Van Snik residential driveway in the Municipality of Murrysburg, **Westmoreland County**, Pittsburgh ACOE District (Murrysville, PA Quadrangle N: 15.94 inches; W: 4.13 inches) (Latitude: 40° 27' 46" and Longitude: 79° 39' 17"). The applicant proposes to remove the existing structure and to construct and maintain a 30-foot long, 5-foot diameter pipe culvert in Haymakers Run (HQ-CWF) on a driveway approximately 200 feet south of Mamont Road.

## ENVIRONMENTAL ASSESSMENTS

*Central Office: Bureau of Waterways Engineering, Rachel Carson State Office Building, Floor 3, 400 Market Street, Harrisburg, PA 17105.*

**D28-010EA. Borough of Chambersburg,** 100 S. Second Street, P. O. Box 10009, Chambersburg, PA 17201-0909. Greene Township, **Franklin County**. ACOE Baltimore District.

Project proposes to breach and remove Siloam Dam across Conococheague Creek (CWF) for the purpose of eliminating a threat to public safety and restoring the stream to a free flowing condition. The dam is approximately 150 feet east of the intersection of T842 and SR 4014 (Chambersburg, PA Quadrangle N: 15.7 inches; W: 3.15 inches).

**EA15-026CO. Natural Lands Trust, Binky Lee Preserve,** 1445 Pikeland Road, Chester Springs, PA 19425. West Pikeland Township, **Chester County**. ACOE Philadelphia District.

Project proposes to breach and remove Binky Lee Preserve Dam across a tributary to Pickering Creek (HQ-TSF) for the purpose of restoring the stream to a free flowing condition. The dam is approximately 1,400 feet southeast of the intersection of SR 0113 and Pikeland Road (T488) (Malvern, PA Quadrangle N: 17.85 inches; W: 14.80 inches).

## WATER QUALITY CERTIFICATIONS REQUESTS

*Southeast Region: Water Management Program Manager, 2 East Main Street, Norristown, PA 19401.*

The following requests have been made to the Department of Environmental Protection (Department) for certification under section 401(a) of the Federal Water Pollution Control Act (33 U.S.C.A. § 1341(a)), that there is reasonable assurance that the construction herein described will not violate applicable Federal and State water quality standards.

Prior to final approval of the proposed certification, consideration will be given to any comments/suggestions/objections which are submitted in writing 30 days of the date of this notice. Comments should be submitted to the Department at the previous address. Comments should contain the name, address and telephone number of the person commenting, identification of the certification request to which the comments/objections are addressed and a concise statement of comments/objections/suggestions in sufficient detail to inform the Department of the exact basis of the proposal and the relevant facts upon which it is based. The Department may conduct a fact-finding hearing or an informal conference in response to given comments if deemed necessary to resolve conflicts. Individuals will be notified in writing of the time and place of a scheduled hearing or conference concerning the certification request to which the protest relates. Maps, drawings and other data pertinent to the certification request are

available for inspection and review at the previous address between 8 a.m. and 4 p.m., working days.

*Certification Request Initiated by:* **Sunoco, Inc.**, 1801 Market Street, Ten Penn Center, Philadelphia, PA 19130-1699.

*Project Description/Location:* This project involves the operation and maintenance of mooring area adjacent to wharves 1—3 at the Sunoco Philadelphia Refinery Girard Point by mechanical dredging and obstruction leveling. The operation and maintenance of Girard Point Wharf was authorized by Water Obstruction and Encroachment Permit E51-128 on September 20, 1993, and the following licenses issued by the City of Philadelphia, Department of Wharves, Docks and Ferries: 111, 116, 158, 165, 205, 208, 228, 294, 300 and 301. The facility is along the northern shore of the Schuylkill River, between the George Platt Bridge (Penrose Avenue) and the Girard Point Bridge (Interstate 95), City and County of Philadelphia. The proposed activity coincides with the Department of Army, Philadelphia District, Corps of Engineers Permit CENAP-OP-R-200002383-46, SUNOCO INCORPORATED. An estimated 30,000 cubic yards of mechanically removed dredge material will be generated, transported and disposed of at the Weeks Marine—American Dredging Companies, Whites Basin Disposal Area, Logan Township, NJ. Obstruction leveling is proposed on an interim basis by redistributing sediment from high portions to deeper portions of the berth template. The applicant seeks certification for redistribution of sediments by obstruction leveling.

*Certification Request Initiated by:* **Sunoco Logistics**, 1801 Market Street, Ten Penn Center, Philadelphia, PA 19130-1699.

*Project Description/Location:* This project involves the operation and maintenance of mooring area adjacent to Fort Mifflin Terminal by mechanical dredging and obstruction leveling. The operation and maintenance the Fort Mifflin Terminal that was authorized by Water Obstruction and Encroachment Permits E23-391 and E2378713T-1. The facility is along the Delaware River and Hog Island Road immediately downstream of the Philadelphia/Delaware County boundary in Tinicum Township, Delaware County, including a portion of the facility that extends approximately 416 feet into the City and County of Philadelphia. The proposed activity coincides with the Department of Army, Philadelphia District, Corps of Engineers Permit CENAP-OP-R-200300267-46, SUNOCO INCORPORATED. An estimated 100,000 cubic yards of mechanically removed dredge material will be generated, transported and disposed of at the Weeks Marine—American Dredging Companies, Whites Basin Disposal Area, Logan Township, NJ. Obstruction leveling is proposed on an interim basis by redistributing sediment from high portions to deeper portions of the berth template. The applicant seeks certification for redistribution of sediments by obstruction leveling.

*Certification Request Initiated by:* **Sunoco Logistics**, 1801 Market Street, Ten Penn Center, Philadelphia, PA 19130-1699.

*Project Description/Location:* This project involves the operation and maintenance of mooring area adjacent to Hog Island Wharf by mechanical dredging and obstruction leveling. The operation and maintenance the Hog Island Wharf was authorized by Water Obstruction and Encroachment Permit E23-038T-1. The facility is along the western shore of the Delaware River and Hog Island Road, approximately 1 mile downstream of the Philadelphia/Delaware County boundary in Tinicum

Township, Delaware County. The proposed activity coincides with the Department of Army, Philadelphia District, Corps of Engineers Permit CENAP-OP-R-200300428-46, SUNOCO INCORPORATED. An estimated 300,000 cubic yards of mechanically removed dredge material will be generated, transported and disposed of at the Weeks Marine—American Dredging Companies, Whites Basin Disposal Area, Logan Township, NJ. Obstruction leveling is proposed on an interim basis by redistributing sediment from high portions to deeper portions of the berth template. The applicant seeks certification for redistribution of sediments by obstruction leveling.

*Certification Request Initiated by:* **Sunoco Logistics**, 1801 Market Street, Ten Penn Center, Philadelphia, PA 19130-1699.

*Project Description/Location:* This project involves the operation and maintenance of mooring area adjacent to South Yard's Case Wharf and North Yard's Asphalt Dock at the Sunoco Philadelphia Refinery Point Breeze Wharves by mechanical dredging and obstruction leveling. The operation and maintenance of Point Breeze Wharves was authorized by Water Obstruction and Encroachment Permits E51-11, E51-129 and E51-138 and the following licenses issued by the City of Philadelphia, Department of Wharves, Docks and Ferries: 40, 52, 124, 104, 109, 150, 157, 213, 253 and 327; and the following licenses issued by the Department of Commerce: 448, 450, 454, 521, 598, 603, 632, 670 and 673. The facility is along eastern shore of the Schuylkill River, west of Schuylkill Avenue, adjacent to the Passyunk Avenue Bridge in the City and County of Philadelphia. The proposed activity coincides with the Department of Army, Philadelphia District, Corps of Engineers Permit CENAP-OP-R-200300429-46, SUNOCO INCORPORATED. An estimated 30,000 cubic yards of mechanically removed dredge material will be generated, transported and disposed of at the Weeks Marine—American Dredging Companies, Whites Basin Disposal Area in Logan Township, NJ. Obstruction leveling is proposed on an interim basis by redistributing sediment from high portions to deeper portions of the berth template. The applicant seeks certification for redistribution of sediments by obstruction leveling.

*Certification Request Initiated by:* **Sunoco, Inc.**, 1801 Market Street, Ten Penn Center, Philadelphia, PA 19130-1699.

*Project Description/Location:* This project involves the operation and maintenance of mooring area adjacent to Marcus Hook Refinery by mechanical dredging and obstruction leveling. The operation and maintenance the Marcus Hook Refinery was authorized by Water Obstruction and Encroachment Permit E23-205. and the following licenses issued by the Navigation Commission: 244, 245, 249, 258, 259, 264, 266, 280, 283, 284, 290, 292, 295, 313, 317, 374, 388, 396 and 415. The facility is along the western shore of the Delaware River and on river mile 79.2, Marcus Hook Range, within Delaware County and New Castle County, DE. The proposed activity coincides with the Department of Army, Philadelphia District, Corps of Engineers Permit CENAP-OP-R-200002407-46, SUNOCO INCORPORATED. An estimated 185,000 cubic yards of mechanically removed dredge material will be generated, transported and disposed of at the Weeks Marine—American Dredging Companies, Whites Basin Disposal Area in Logan Township, NJ. Obstruction leveling is proposed on an interim basis by redistributing sediment from high portions to deeper portions of the berth template. The applicant seeks certification for redistribution of sediments by obstruction leveling.

## ACTIONS

## THE CLEAN STREAMS LAW AND THE FEDERAL CLEAN WATER ACT

### FINAL ACTIONS TAKEN FOR NATIONAL POLLUTION DISCHARGE ELIMINATION SYSTEM (NPDES) PERMITS AND WATER QUALITY MANAGEMENT (WQM) PERMITS

The Department of Environmental Protection (Department) has taken the following actions on previously received applications for new, amended and renewed NPDES and WQM permits, applications for permit waivers and Notices of Intent (NOI) for coverage under general permits. This notice is provided in accordance with 25 Pa. Code Chapters 91 and 92 and 40 CFR Part 122, implementing provisions of The Clean Streams Law (35 P. S. §§ 691.1—691.1001) and the Federal Clean Water Act.

<i>Location</i>	<i>Permit Authority</i>	<i>Application Type or Category</i>
Section I	NPDES	Renewals
Section II	NPDES	New or amendment
Section III	WQM	Industrial, sewage or animal wastes; discharges to groundwater
Section IV	NPDES	MS4 individual permit
Section V	NPDES	MS4 permit waiver
Section VI	NPDES	Individual permit stormwater construction
Section VII	NPDES	NOI for coverage under NPDES general permits

Sections I—VI contain actions related to industrial, animal or sewage wastes discharges, discharges to groundwater and discharges associated with municipal separate storm sewer systems (MS4), stormwater associated with construction activities and concentrated animal feeding operations (CAFOs). Section VII contains notices for parties who have submitted NOIs for coverage under general NPDES permits. The approval for coverage under general NPDES permits is subject to applicable effluent limitations, monitoring, reporting requirements and other conditions set forth in each general permit. The approval of coverage for land application of sewage sludge or residential septage under applicable general permit is subject to pollutant limitations, pathogen and vector attraction reduction requirements, operational standards, general requirements, management practices and other conditions set forth in the respective permit. Permits and related documents, effluent limitations, permitting requirements and other information are on file and may be inspected and arrangements made for copying at the contact office noted before the action.

Persons aggrieved by an action may appeal, under section 4 of the Environmental Hearing Board Act (35 P. S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law), to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users should contact the Environmental Hearing Board (Board) through the Pennsylvania Relay Service, (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin*, unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary of the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decision law.

For individuals who wish to challenge an action, appeals must reach the Board within 30 days. A lawyer is not needed to file an appeal with the Board.

Important legal rights are at stake, however, so individuals should show this notice to a lawyer at once. Persons who cannot afford a lawyer may qualify for free pro bono representation. Call the Secretary to the Board at (717) 787-3483 for more information.

#### I. NPDES Renewal Permit Actions

*Northeast Region: Water Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790.*

<i>NPDES Permit No. (Type)</i>	<i>Facility Name and Address</i>	<i>County and Municipality</i>	<i>Stream Name (Watershed No.)</i>	<i>EPA Waived Y/N ?</i>
PA0031267	Tri-Valley School District 110 West Main Street Valleyview, PA 17983	Schuylkill County Hegins Township	Pine Creek 6C	Y
PA0047198 Minor Sewage	Crown American Properties, LP Pasquerilla Plaza Johnstown, PA 15907	Schuylkill County New Castle Township	Unnamed tributary to Mud Run 3A	Y
PA0061905 Minor Sewage	Sunoco Inc. Hickory Run Service Plaza 1001 Hector Street, 4th Floor Conshohocken, PA 19928	Carbon County Penn Forest Township	Stoney Creek 2B	Y

<i>NPDES Permit No. (Type)</i>	<i>Facility Name and Address</i>	<i>County and Municipality</i>	<i>Stream Name (Watershed No.)</i>	<i>EPA Waived Y/N ?</i>
PAS802217	Overnight Transportation Company 1000 Semmes Avenue Richmond, VA 23224	Northampton County Hanover Township	Unnamed tributary to Monocacy Creek 2C	Y

*Southcentral Region: Water Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110, (717) 705-4707.*

<i>NPDES Permit No. (Type)</i>	<i>Facility Name and Address</i>	<i>County and Municipality</i>	<i>Stream Name (Watershed No.)</i>	<i>EPA Waived Y/N ?</i>
PA0083283 SEW	Arthur G. Bruaw, Jr. Bruaw Mobile Home Park P. O. Box 277 Saint Thomas, PA 17252	Perry County Watts Township	UNT Susquehanna River 6C	Y
PA0024228 IW Transfer	BC Natural Chicken LLC 2609 Route 22 Fredericksburg, PA 17026	Lebanon County Bethel Township	Deep Run 7D	Y
PA0008303 IW Transfer	ISG Steelton LLC 215 South Front Street Steelton, PA 17113	Dauphin County Steelton Borough	Susquehanna River 7C	Y

*Mifflin County Conservation District: 20 Windmill Hill No. 4, Burnham, PA 17009, (717) 248-4695.*

<i>NPDES Permit No. (Type)</i>	<i>Facility Name and Address</i>	<i>County and Municipality</i>	<i>Stream Name (Watershed No.)</i>	<i>EPA Waived Y/N ?</i>
PAS104505R	Armagh Business Center 269 Waring Avenue State College, PA 16801	Mifflin County Armagh Township	UNT to Tea Creek and Laurel Run HQ-CWF	Y

*Southwest Region: Water Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.*

<i>NPDES Permit No. (Type)</i>	<i>Facility Name and Address</i>	<i>County and Municipality</i>	<i>Stream Name (Watershed No.)</i>	<i>EPA Waived Y/N?</i>
PA0092797 Industrial Waste	Avonmore Rail Loading, Inc. P. O. Box 119, R. D. 1 Avonmore, PA 15681	Conemaugh Township Indiana County	Kiskiminetas River	Y
PA0097497 Industrial Waste	Cowanshannock Municipal Authority Box 127 NuMine, PA 16244	Armstrong County Cowanshannock Township	Unnamed tributary to the North Branch of Plum Creek	Y
PA0030376 Sewage	Bell Acres Municipal Sewage Authority Municipal Building R. D. 3, Camp Meeting Road Sewickley, PA 15143	Allegheny County Bell Acres Borough	UNT of Little Sewickley Creek	Y

*Northwest Region: Water Management Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481.*

<i>NPDES Permit No. (Type)</i>	<i>Facility Name and Address</i>	<i>County and Municipality</i>	<i>Stream Name (Watershed No.)</i>	<i>EPA Waived Y/N ?</i>
PA0239429	Mercer Baptist Church 3016 Valley Road Mercer, PA 16137	Findley Township Mercer County	Unnamed tributary to Neshannock Creek	Y
PA0101800	Lord Corporation—Chemical Products Division 601 South Street P. O. Box 1050 Saegertown, PA 16433	Saegertown Borough Crawford County	French and Woodcock Creeks 16-A	Y

## **II. New or Expanded Facility Permits, Renewal of Major Permits and EPA Nonwaived Permit Actions**

*Southeast Region: Water Management Program Manager, 2 East Main Street, Norristown, PA 19401.*

**NPDES Permit No. PA0011428**, Industrial Waste, **Amerada Hess Corporation**, One Hess Plaza, Woodbridge, NJ 07095-0961. This proposed facility is in the City of Philadelphia, **Philadelphia County**.

Description of Proposed Action/Activity: Approval for the renewal to discharge treated stormwater runoff from the Philadelphia Terminal facility into Schuylkill River in Watershed 3F.

*Southcentral Region: Water Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110, (717) 705-4707.*



**NPDES Permit No. PA0085197**, Sewage, **Kampel Enterprises, Inc.**, 8930 Carlisle Road, Wellsville, PA 17365-9735. This proposed facility is in Warrington Township, **York County**.

Description of Proposed Action/Activity: Authorization to discharge to an unnamed tributary of North Branch Bermudian Creek in Watershed 7-F.

**NPDES Permit No. PA0033995, Amendment No. 2**, Sewage, **County of Berks, County STP**, Sixth and Court Streets, 14th Floor, Reading, PA 19601. This proposed facility is in Bern Township, **Berks County**.

Description of Proposed Action/Activity: Authorization to discharge to Plum Creek in Watershed 3-C.

**NPDES Permit No. PA0082741**, Industrial Waste, **Borough of Elizabethtown, Conewago Creek Diversion**, 600 South Hanover Street, Elizabethtown, PA 17022. This proposed facility is in Mount Joy Township, **Lancaster County**.

Description of Proposed Action/Activity: Authorization to discharge to an unnamed tributary of Conoy Creek in Watershed 7-G.

**NPDES Permit No. PA0013862**, Industrial Waste, **Wyeth Pharmaceuticals, Inc.**, 206 North Biddle Street, Marietta, PA 17547. This proposed facility is in East Donegal Township, **Lancaster County**.

Description of Proposed Action/Activity: Authorization to discharge to the Susquehanna River in Waters 7-J.

**NPDES Permit No. PA0087165, Amendment No. 1**, Industrial Waste, **Bleyer Gift Packs LLC**, 500 Walnut Street Extension, Mount Union, PA 17066. This proposed facility is in Mount Union Borough, **Huntingdon County**.

Description of Proposed Action/Activity: Authorization to discharge to the Juniata River in Watershed 12-C.

**NPDES Permit No. PA0088935, Amendment No. 1**, CAFO, **Barley Farms**, 37 Chestnut Grove Road, Conestoga, PA 17156. This proposed facility is in North Codorus Township, **York County**.

Description of Size and Scope of Proposed Operation/Activity: Operation of a 1,893 AEU swine CAFO with discharge in Watershed 7-H.

*Southwest Region: Water Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.*

**NPDES Permit No. PA0252620**, Industrial Waste, **West Carroll Township Water and Sewer Authority**, P. O. Box 328, Elmora, PA 15737. This proposed facility is in West Carroll Township, **Cambria County**.

Description of Proposed Action/Activity: Discharge of treated process water from water treatment plant to unnamed tributary of Fox Run.

*Northwest Region: Water Management Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481.*

**NPDES Permit No. PA0023175**, Sewage, **Borough of Kane, Kinzua Road Wastewater Treatment Plant**, 112 Bayard Street, Kane, PA 16735. This proposed facility is in Wetmore Township, **McKean County**.

Description of Proposed Action/Activity: This facility is authorized to discharge to Hubert Run in Watershed 16-B.

**NPDES Permit No. PA0239461**, Sewage, **David K. and Lori A. Mason**, 887 Ekastown Road, Sarver, PA 16055. This proposed facility is in Clinton Township, **Butler County**.

Description of Proposed Action/Activity: This is a single residence sewage treatment plant discharging to Sarver Run.

### **III. WQM Industrial Waste and Sewerage Actions under The Clean Streams Law (35 P. S. §§ 691.1—691.1001)**

*Southeast Region: Water Management Program Manager, 2 East Main Street, Norristown, PA 19401.*

**WQM Permit No. 1503428**, Sewerage, **Greg Leeber and Tracy Sabol**, 1285 Parkersville Road, Kennett Square, PA 19348. This proposed facility is in Pennsbury Township, **Chester County**.

Description of Proposed Action/Activity: Construction and operation of a sewage treatment system to serve the Leeber and Sabol residence.

*Northeast Region: Water Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790.*

**WQM Permit No. 4804402**, Sewerage, **Bath Borough Authority**, P. O. Box 87, Bath, PA 18104. This proposed facility is in Upper Nazareth Township, **Northampton County**.

Description of Proposed Action/Activity: Issuance of Water Quality Management Permit.

*Southcentral Region: Water Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110, (717) 705-4707.*

**WQM Permit No. 0604406**, Sewage, **Ontelaunee Township Municipal Authority**, P. O. Box 621, Leesport, PA 19533. This proposed facility is in Ontelaunee Township, **Berks County**.

Description of Proposed Action/Activity: Construction of sewerage facilities consisting of a pump station/collection system which includes two suction lift pump stations, approximately six grinder pumps and associated force mains and gravity sewers. All flows from this collection system will be discharged to and treated at the Maidencreek STP.

**WQM Permit No. 6703401**, **York Township Water and Sewer Authority**, 25 Oak Street, York, PA 17402. This proposed facility is in York Township, **York County**.

Description of Proposed Action/Activity: Construction of Biscayne Woods and The Fields at Fox Hollow Denhaven Drive Pump Station.

**WQM Permit Nos. 2295201, 2276206 and 2269203**, Industrial Waste, **ISG Steelton, LLC**, 215 South Front Street, Steelton, PA 17113. This proposed facility is in Steelton Borough, **Dauphin County**.

Description of Proposed Action/Activity: Transfer of permits.

**WQM Permit No. 6703202**, CAFO, **Barley Farms**, 37 Chestnut Grove Road, Conestoga, PA 17516. This proposed facility is in North Codorus Township, **York County**.

Description of Proposed Action/Activity: Construction/operation of manure storage facilities for Green Valley Farm, a 1,893 AEU swine CAFO.

*Southwest Region: Water Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.*

**WQM Permit No. 6504202**, Industrial Waste, **Westinghouse Electric Company—Specialty Metals Plant**, 559 Westinghouse Road, Blairsville, PA 15717. This proposed facility is in Derry Township, **Westmoreland County**.

Description of Proposed Action/Activity: Construction of an industrial waste treatment plant to serve the Specialty Metals Plant.

**WQM Permit No. 0203405**, Sewage, **Louise M. McGarrity**, 118 Harrison Road, Elizabeth, PA 15037. This proposed facility is in Lincoln Borough, **Allegheny County**.

Description of Proposed Action/Activity: Construction of a small flow sewage treatment plant with discharge to infiltration trenches, to serve the Louise M. McGarrity residence.

**WQM Permit No. 0272418-A4**, Sewage, **Riverview Sanitary Authority**, 3100 University Boulevard, Route 51, Moon Township, PA 15108. This facility is in Moon Township, **Allegheny County**.

Description of Proposed Action/Activity: Sewage treatment plant modification.

*Northwest Region: Water Management Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481.*

**WQM Permit No. 2493402**, Sewerage Amendment No. 1, **Borough of Ridgway**, P. O. Box 149, Ridgway, PA 15853-0149. This proposed facility is in Ridgway Township, **Elk County**.

Description of Proposed Action/Activity: This project is for the installation of sludge filter press and construction of an effluent diffuser.

**WQM Permit No. 1604401**, Sewerage, **George A. White, Riverview Campground**, 587 Whitestown Road, Butler, PA 16001. This proposed facility is in Brady Township, **Clarion County**.

Description of Proposed Action/Activity: This project is for the construction and operation of a small flow treatment facility to serve a private campground.

**WQM Permit No. 1004402**, Sewerage, **Breakneck Creek Regional Authority**, P. O. Box 1180, Mars, PA 16046-1180. This proposed facility is in Adams Township, **Butler County**.

Description of Proposed Action/Activity: This project is for a pump station/sewer extension to serve the Mars-Evans City Road area.

**WQM Permit No. 1072405**, Sewerage Amendment No. 1, **Evans City Borough**, 220 Wahl Avenue, Evans City, PA 16033. This proposed facility is in Evans City Borough, **Butler County**.

Description of Proposed Action/Activity: This project is for the addition of dechlorination stage to process wastewater.

**WQM Permit No. 4304409**, Sewerage, **Dale W. Wilson, Hadley House Apartments**, 751 Lynn-Tyro Road, Hadley, PA 16130. This proposed facility is in Perry Township, **Mercer County**.

Description of Proposed Action/Activity: This project is for the construction and operation of a small flow treatment facility to serve an existing five-unit apartment house.

**WQM Permit No. 3704404**, Sewerage, **Edgewood Group Home, Human Services Center**, 130 West North Street, New Castle, PA 16101. This proposed facility is in Pulaski Township, **Lawrence County**.

Description of Proposed Action/Activity: This project is for the construction and operation of a sewage treatment facility to serve an existing residence which houses eight autistic adults and a proposed residence to house eight elderly adults.

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#### IV. NPDES Stormwater Discharges from MS4 Permit Actions

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#### V. NPDES Waiver Stormwater Discharges from MS4 Actions

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#### VI. NPDES Discharges of Stormwater Associated with Construction Activities Individual Permit Actions

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*Northeast Region: Water Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790.*

<i>NPDES Permit No.</i>	<i>Applicant Name and Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI023504001	Valley View School District One Columbus Dr. Archbald, PA 18403	Lackawanna	Blakely Borough	Lackawanna River HQ-CWF
PAI023904012	Upper Macungie Township 8330 Schantz Rd. Breinigsville, PA 18031	Lehigh	Upper Macungie Township	Little Lehigh Creek HQ-CWF

*Southcentral Region: Water Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.*

<i>NPDES Permit No.</i>	<i>Applicant Name and Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI030704001	Kenneth F. Burket 130 Lakeview Drive Hollidaysburg, PA 16648	Blair	Frankstown Township	UNT to Canoe Creek HQ-CWF
PAI026704001	Hostler Enterprises, LLC 10709 Susquehanna Trail South Glen Rock, PA 17327	York	Springfield Township	Seaks Run

*Southwest Region: Water Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.*

*Westmoreland County Conservation District: Center for Conservation Education, 211 Donohoe Road, Greensburg, PA 15601, (724) 837-5271.*

<i>NPDES Permit No.</i>	<i>Applicant Name and Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI056504001	William and Jayne Hoy 2781 Italy Road Export, PA 15632	Westmoreland	Washington Township	Unnamed tributary to Thorn Run HQ

## **VII. Approvals to Use NPDES and/or Other General Permits**

The EPA Region III Administrator has waived the right to review or object to this permit action under the waiver provision 40 CFR 123.23(d).

### **List of NPDES and/or Other General Permit Types**

PAG-1	General Permit for Discharges from Stripper Oil Well Facilities
PAG-2	General Permit for Discharges of Stormwater Associated with Construction Activities (PAR)
PAG-3	General Permit for Discharges of Stormwater from Industrial Activities
PAG-4	General Permit for Discharges from Single Residence Sewage Treatment Plants
PAG-5	General Permit for Discharges from Gasoline Contaminated Ground Water Remediation Systems
PAG-6	General Permit for Wet Weather Overflow Discharges from Combined Sewer Systems
PAG-7	General Permit for Beneficial Use of Exceptional Quality Sewage Sludge by Land Application
PAG-8	General Permit for Beneficial Use of Nonexceptional Quality Sewage Sludge by Land Application to Agricultural Land, Forest, a Public Contact Site or a Land Reclamation Site
PAG-8 (SSN)	Site Suitability Notice for Land Application under Approved PAG-8 General Permit Coverage
PAG-9	General Permit for Beneficial Use of Residential Septage by Land Application to Agricultural Land, Forest or a Land Reclamation Site
PAG-9 (SSN)	Site Suitability Notice for Land Application under Approved PAG-9 General Permit Coverage
PAG-10	General Permit for Discharge Resulting from Hydrostatic Testing of Tanks and Pipelines
PAG-11	(To Be Announced)
PAG-12	CAFOs
PAG-13	Stormwater Discharges from MS4

#### *General Permit Type—PAG-2*

<i>Facility Location and Municipality</i>	<i>Permit No.</i>	<i>Applicant Name and Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office and Telephone No.</i>
Phoenixville Borough Chester County	PAG2001504009	Emmanuel Demutis Moyer Properties 184 East Bridge Street Phoenixville, PA 19460	French Creek TSF-MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
East Fallowfield Township Chester County	PAG2001504001	Doutrich Homes Scott Farm Estates 3333 Lincoln Highway East Paradise, PA 17562	Unnamed tributary Sucker Run WWF-MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900

<i>Facility Location and Municipality</i>	<i>Permit No.</i>	<i>Applicant Name and Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office and Telephone No.</i>
East Marlborough Township Chester County	PAG2001503108	Joseph Scott Subdivision 538 North Mill Road Kennett Square, PA 19348	Unnamed tributary West Branch Red Clay Creek TSF-MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Phoenixville Borough Chester County	PAG2001504044	Phoenix Property Group Gateway Project—100 French Creek c/o Delta Organization 72 East Swedesford Road Malvern, PA 19355	French Creek and Schuylkill River TSF-MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Kennett Township Chester County	PAG2001504032	Schoolhouse Realty Associates, LP Belvedere a/k/a Ellis Property 1595 Paoli Pike, Suite 202 P. O. Box 1906 West Chester, PA 19380	Unnamed tributaries Red Clay Creek CWF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Nether Providence Township Delaware County	PAG2002304025	Raymond Puzio 217 North Providence Road Wallingford, PA 19080	Crum Creek WWF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Franconia Township Montgomery County	PAG2004604037	Hagey Realty 200 School House Road P. O. Box 116 Franconia, PA 18924	Skipack Creek TSF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Montgomery Township Montgomery County	PAG2004603244	R. Dratch Construction, Inc. Cammарota Tract P. O. Box 3408 Maple Glenn, PA 19002	Little Neshaminy Creek WF-MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
East Greenville Borough Montgomery County	PAG2004604013	East Greenville Owl's Home, Inc. The Owl's Property 404 Main Street Pennsburg, PA 18073	Macoby Creek TSF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Upper Moreland Township Montgomery County	PAG2004604062	The Rosen Organization North Crossing Office Building 3625 Welsh Road Willow Grove, PA 19090	Sandy Run TSF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Upper Dublin Township Montgomery County	PAG2004603203	ACTS, Inc. Fort Washington Estates 375 Morris Road, P. O. Box 90 West Point, PA 19486	Unnamed tributary Wissahickon Creek TSF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Limerick and Upper Providence Townships Montgomery County	PAG2004604027	Spring Ford Area School District 9th Grade Center 199 Bechtel Road Collegeville, PA 19426	Unnamed tributary Mingo Creek	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Abington Township Montgomery County	PAG200464042	Abington Township Parks Department Abington Township Trails 515 Meetinghouse Road Jenkintown, PA 19046	Sandy Run Creek TSF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900

<i>Facility Location and Municipality</i>	<i>Permit No.</i>	<i>Applicant Name and Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office and Telephone No.</i>
Spring Township Berks County	PAG2000604039	Gary Nalbandian Commerce Bank 100 Senate Avenue Camp Hill, PA 17011	Wyomissing Creek CWF	Berks County Conservation District 1238 County Welfare Road P. O. Box 520 Leesport, PA 19533 (610) 372-4657, Ext. 201
Rockland Township Berks County	PAG2000604055	Quest Land Development, LLP 711 Spring Street Wyomissing, PA 19610	UNT to Willow Creek WWF	Berks County Conservation District 1238 County Welfare Road P. O. Box 520 Leesport, PA 19533 (610) 372-4657, Ext. 201
Spring Township Berks County	PAG2000604052	Greystone Partnership LP 330 Revere Boulevard Sinking Spring, PA 19608	UNT to Wyomissing Creek CWF	Berks County Conservation District 1238 County Welfare Road P. O. Box 520 Leesport, PA 19533 (610) 372-4657, Ext. 201
Manheim Township York County	PAG2006704011	Skyview Estates Joel Glatfelter 73 Forest Avenue Box 18 Shrewsbury, PA 17361	UNT to Codorus Creek WWF	York County Conservation District 118 Pleasant Acres Road York, PA 17402 (717) 840-7430
York Township York County	PAG2006703152	York County School of Technology 2179 South Queen Street York, PA 17402	UNT to Mill Creek WWF	York County Conservation District 118 Pleasant Acres Road York, PA 17402 (717) 840-7430
City of York York County	PAG2006704009	Sunrise Holdings, LP 1020 N. Hartley P. O. Box 2587 York, PA 17404	Willis Run WWF	York County Conservation District 118 Pleasant Acres Road York, PA 17402 (717) 840-7430
West Manchester Township City of York York County	PAG2006704013	Apple Auto Park Sunrise Holdings 1020 N. Hartley P. O. Box 2587 York, PA 17404	UNT to Willis Run WWF	York County Conservation District 118 Pleasant Acres Road York, PA 17402 (717) 840-7430
Manchester Township York County	PAR10Y399R-1	Berkshire Business Park Kinsley Equities 2700 Water Street York, PA 17403	UNT to Codorus Creek WWF	York County Conservation District 118 Pleasant Acres Road York, PA 17402 (717) 840-7430
Dover Township York County	PAG2006703146	Salem Run Phase 4 Penn State Investment Group 2555 Kingston Road Suite 180 York, PA 17402	UNT to Fox Run TSF	York County Conservation District 118 Pleasant Acres Road York, PA 17402 (717) 840-7430

<i>Facility Location and Municipality</i>	<i>Permit No.</i>	<i>Applicant Name and Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office and Telephone No.</i>
Heidelberg Township York County	PAG2006703081	Land Scales and Service LLC 65 Musselman Road Hanover, PA 17331	Oil Creek WWF	York County Conservation District 118 Pleasant Acres Road York, PA 17402 (717) 840-7430
Chanceford Township York County	PAG2006704026	Baublitz Airport 3354 Warner Road Brogue, PA 17309	West Branch Tom's Run TSF	York County Conservation District 118 Pleasant Acres Road York, PA 17402 (717) 840-7430
Manheim Township York County	PAG2006704042	Dennis Bosley 4108 Landis Road Glenville, PA 17329	West Branch Codorus Creek WWF	York County Conservation District 118 Pleasant Acres Road York, PA 17402 (717) 840-7430
Centre County Spring Township	PAG2001404002	John Koltay Spring Gardens, Inc. 1836 Waddle Road State College, PA 16803	UNT to Spring Creek CWF	Centre County Conservation District 414 Holmes Avenue Suite 4 Bellefonte, PA 16823 (814) 35-6817
Northumberland County Riverside Borough	PAG2004904006	West End Stormwater Controls 100 Avenue C Sunbury, PA 17801	Susquehanna River WWF	Northumberland County Conservation District R. R. 3, Box 238C Sunbury, PA 17801 (570) 286-7114, Ext. 4
Cambria County City of Johnstown	PAG2001104007	Willard E. Campbell Team Motors 170 Patchway Road Duncansville, PA 16635	Stonycreek River WWF	Cambria County Conservation District (814) 472-2120
Washington County North Strabane Township	PAG2006303044	Maronda Homes, Inc. 202 Park West Drive Pittsburgh, PA 15275	Unnamed tributary to Chartiers Creek WWF	Washington County Conservation District (724) 228-6774
Westmoreland County Upper Burrell Township	PAG2006504022	Mike Phillips 211 Huff Avenue Suite B Greensburg, PA 15601	Tributary to Pucketa Creek TSF	Westmoreland County Conservation District (724) 837-5271
Westmoreland County Municipality of Murrysville	PAG2006504026	Yorkshire Enterprises 53 Bel Aire Drive Delmont, PA 15626	Tributary to Turtle Creek Watershed TSF	Westmoreland County Conservation District (724) 837-5271

*General Permit Type—PAG-3*

<i>Facility Location and Municipality</i>	<i>Permit No.</i>	<i>Applicant Name and Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office and Telephone No.</i>
Allentown City Lehigh County	PAR202216	Prior Coated Metals, Inc. 2233 26th Street, SW Allentown, PA 18103	Trout Creek	NERO Water Management Program 2 Public Square Wilkes-Barre, PA 18711-0790 (570) 826-2511

<i>Facility Location and Municipality</i>	<i>Permit No.</i>	<i>Applicant Name and Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office and Telephone No.</i>
Neville Township Allegheny County	PAR806232	McClymonds Supply & Transit Company Inc. P. O. Box 29 Currie Road Portersville, PA 16051	Ohio River	Southwest Regional Office Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222-4745 (412) 442-4000
<i>General Permit Type—PAG-4</i>				
<i>Facility Location and Municipality</i>	<i>Permit No.</i>	<i>Applicant Name and Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office and Telephone No.</i>
Lower Burrell City Westmoreland County	PAG046193	Donald Gathers 405 Spiering Road Lower Burrell, PA 15068	UNT to Chartiers Run	Southwest Regional Office Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222-4745 (412) 442-4000
Spring Township Crawford County	PAG048590	Nicholas A. Tanner 25949 Hickernell Road Springboro, PA 16435	Unnamed tributary to Temple Creek	NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
Perry Township Mercer County	PAG048963	Dale W. Wilson Hadley Heights Apartments 751 Lynn-Tyro Road Hadley, PA 16130	Unnamed tributary to Little Shenango River Watershed 20-A	NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
<i>General Permit Type—PAG-6</i>				
<i>Facility Location and Municipality</i>	<i>Permit No.</i>	<i>Applicant Name and Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office and Telephone No.</i>
Borough of Braddock Allegheny County	PAG066102	Braddock Borough 415 Sixth Street Braddock, PA 15104	Monongahela River	Southwest Regional Office Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222-4745 (412) 442-4000
Borough of Crafton Allegheny County	PAG066110	Crafton Borough Crafton Municipal Building 100 Stotz Avenue Pittsburgh, PA 15205	Chartiers Creek	Southwest Regional Office Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222-4745 (412) 442-4000
Borough of Sharpsburg Allegheny County	PAG066125	Sharpsburg Borough 1611 Main Street Pittsburgh, PA 15215	Allegheny River	Southwest Regional Office Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222-4745 (412) 442-4000

<i>Facility Location and Municipality</i>	<i>Permit No.</i>	<i>Applicant Name and Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office and Telephone No.</i>
Borough of Coraopolis Allegheny County	PAG066135	Coraopolis Municipal Sani. Authority 1012 Fifth Avenue Coraopolis, PA 15108	Ohio River	Southwest Regional Office Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222-4745 (412) 442-4000

*General Permit Type—PAG-8*

<i>Facility Location and Municipality</i>	<i>Permit No.</i>	<i>Applicant Name and Address</i>	<i>Site Name and Location</i>	<i>Contact Office and Telephone No.</i>
Upper Frankford Township Cumberland County	PAG083570	Borough of Carlisle 53 W. South St. Carlisle, PA 17013	Nelson Shughart Farm	SCRO 909 Elmerton Avenue Harrisburg, PA 17110-8200 (717) 705-4707
Borough of Chambersburg Franklin County	PAG083587	Chambersburg Borough J. Hase Mowrey WWTF 100 S. Second St. Chambersburg, PA 17201		SCRO 909 Elmerton Avenue Harrisburg, PA 17110-8200 (717) 705-4707

## PUBLIC WATER SUPPLY (PWS) PERMITS

The Department of Environmental Protection has taken the following actions on applications received under the Pennsylvania Safe Drinking Water Act (35 P. S. §§ 721.1—721.17) for the construction, substantial modification or operation of a public water system.

Persons aggrieved by an action may appeal, under section 4 of the Environmental Hearing Board Act (35 P. S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law), to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users should contact the Environmental Hearing Board (Board) through the Pennsylvania Relay Service, (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin*, unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary of the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decision law.

For individuals who wish to challenge an action, appeals must reach the Board within 30 days. A lawyer is not needed to file an appeal with the Board.

Important legal rights are at stake, however, so individuals should show this notice to a lawyer at once. Persons who cannot afford a lawyer may qualify for free pro bono representation. Call the Secretary to the Board at (717) 787-3483 for more information.

### SAFE DRINKING WATER

#### Actions taken under the Pennsylvania Safe Drinking Water Act.

*Southeast Region: Water Supply Management Program Manager, 2 East Main Street, Norristown, PA 19401.*

**Operations Permit** issued to **Olde Colonial Greene**, One Olde Colonial Drive, Doylestown, PA 18901, PWS ID 1090097, Doylestown Township, **Bucks County** on June 1, 2004, for the operation of facilities approved under Construction Permit No. 0904502.

*Northeast Region: Water Supply Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790.*

**Operations Permit** issued to **United Water Pennsylvania**, 4211 East Park Circle, Harrisburg, PA 17111, PWS ID 3540023, North Union Township, **Schuylkill County** on May 25, 2004, for the operation of facilities approved under Construction Permit No. 5403501 issued November 25, 2003.

*Southcentral Region: Water Supply Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.*

**Permit No. 5004501**, Public Water Supply.

Applicant	<b>Countryside Mobile Home Park</b>
Municipality	Carroll Township
County	<b>Perry</b>
Type of Facility	This permit approves the installation of manganese control equipment to the existing PWS.
Consulting Engineer	Stephen R. Morse, P. E. Skelly and Loy, Inc. 2601 North Front Street Harrisburg, PA 17110-1185
Permit to Construct Issued	May 28, 2004

**Operations Permit** issued to **The Lutheran Home at Tipton**, 3060094, Longswamp, Tipton, **Berks County** on May 25, 2004, for the operation of facilities approved under Construction Permit No. 0603503 MA.

**Operations Permit** issued to **Bendersville Borough**, 7010002, Menallen Township, **Adams County** on April



12, 2004, for the operation of facilities approved under Construction Permit No. 0190505.

### WATER ALLOCATIONS

**Actions taken on applications received under the act of June 24, 1939 (P. L. 842, No. 365) (35 P. S. §§ 631—641) relating to the acquisition of rights to divert waters of this Commonwealth.**

*Southeast Region: Water Supply Management Program, 2 East Main Street, Norristown, PA 19401.*

**WA-15-47A**, Water Allocations, Downingtown Municipal Water Authority, 100 Water Plant Way, Downingtown, PA 19335, Downingtown Township, **Chester County**. Modification Order issued May 5, 2004, which modified permit WA-15-47A to recognize the Water Capacity Reservation and Sales Agreement between Downingtown Municipal Water Authority (DMWA) and Aqua Pennsylvania, Inc. (API). API will purchase up to a maximum of 500,000 gallon per day of water from DMWA to meet its essential uses in East Brandywine, West Brandywine and Caln Townships, Chester County.

### SEWAGE FACILITIES ACT PLAN APPROVAL

**Plan Approvals Granted under the Pennsylvania Sewage Facilities Act (35 P. S. §§ 750.1—750.20a)**

*Southcentral Region: Water Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.*

#### Plan Location:

<i>Borough or Township</i>	<i>Borough or Township Address</i>	<i>County</i>
Susquehanna Township	1900 Linglestown Road Harrisburg, PA 17110	Dauphin

Plan Description: Approval of a revision to the Official Sewage Plan of Susquehanna Township, Dauphin County. The proposed Sturbridge Subdivision—Phase II consists of four commercial lots with a sewage flow of 1,600 gpd tributary to the Paxton Creek interceptor with treatment at the Harrisburg City Wastewater Treatment Plant. The Department's review of the sewage facilities update revision has not identified any significant impacts resulting from this proposal.

*Northcentral Region: Water Management Program Manager, 208 West Third Street, Williamsport, PA 17701.*

#### Plan Location:

<i>Borough or Township</i>	<i>Borough or Township Address</i>	<i>County</i>
Clearfield Borough	6 South Front Street Clearfield, PA 16830	Clearfield

Plan Description: The approved plan provides for the replacement of all the existing combined sewers with new separate sewers throughout the Borough. This project will be divided into two phases. The project will replace over 158,000 feet of sewer line and cost approximately \$20,332,450. The Department's review of the sewage facilities update revision has not identified any significant environmental impacts resulting from this proposal. Any required NPDES permits or WQM permits must be obtained in the name of the municipality or authority as appropriate.

*Southwest Region: Water Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222.*

#### Plan Location:

<i>Borough or Township</i>	<i>Borough or Township Address</i>	<i>County</i>
Washington Township	Washington Township Supervisors c/o Richard Gardner, Chairperson 285 Pine Run Church Road Apollo, PA 15613	Westmoreland

Plan Description: The approved plan provides for extending the existing Beaver Run Interceptor and instructing gravity sewers to serve the Route 380-66 corridor in Washington Township, Westmoreland County. The project proposes extension of municipal sewers owned and operated by the Municipal Authority of Washington Township to serve a total of 323 equivalent dwelling units. The sewage from this project will be conveyed to Kiski Valley Water Pollution Control Authority Sewage Treatment Plant near Vandergrift, PA. The Department's review of the sewage facilities update revision has not identified any significant environmental impacts resulting from this proposal. Any required WQM permits must be obtained in the of the Municipal Authority of Washington Township.

### BIOSOLIDS INDIVIDUAL PERMITS

#### (PABIG, SSN and PABIS)

The Department of Environmental Protection has taken the following actions on the previously received individual permit applications for the land application of treated sewage sludge (biosolids).

Persons aggrieved by an action may appeal, under section 4 of the Environmental Hearing Board Act (35 P. S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law), to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users should contact the Environmental Hearing Board (Board) through the Pennsylvania Relay Service, (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin*, unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary of the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decision law.

For individuals who wish to challenge an action, appeals must reach the Board within 30 days. A lawyer is not needed to file an appeal with the Board.

Important legal rights are at stake, however, so individuals should show this notice to a lawyer at once. Persons who cannot afford a lawyer may qualify for free pro bono representation. Call the Secretary to the Board at (717) 787-3483 for more information.

*Southcentral Region: Water Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.*

**PABIS 3502. Newville Borough Water and Sewer Authority**, 99 Cove Avenue, Newville, PA 17241, West Pennsboro Township, Cumberland County. Newville Borough Water and Sewer Authority is approved to benefit

cially use their biosolids on the Dennis McCollough Farm, West Pennsboro Township, **Cumberland County**.

## LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

UNDER ACT 2, 1995

### PREAMBLE 2

**The following plans and reports were submitted under the Land Recycling and Environmental Remediation Standards Act (35 P. S. §§ 6026.101—6026.908).**

Provisions of Chapter 3 of the Land Recycling and Environmental Remediation Standards Act (act) require the Department of Environmental Protection (Department) to publish in the *Pennsylvania Bulletin* a notice of submission of plans and reports. A final report is submitted to document cleanup of a release of a regulated substance at a site to one of the act's remediation standards. A final report provides a description of the site investigation to characterize the nature and extent of contaminants in environmental media, the basis for selecting the environmental media of concern, documentation supporting the selection of residential or nonresidential exposure factors, a description of the remediation performed and summaries of sampling analytical results which demonstrate that remediation has attained the cleanup standard selected. Submission of plans and reports, other than the final report, shall also be published in the *Pennsylvania Bulletin*. These include the remedial investigation report, risk assessment report and cleanup plan for a site-specific standard remediation. A remedial investigation report includes conclusions from the site investigation, concentration of regulated substances in environmental media; benefits of refuse of the property and, in some circumstances, a fate and transport analysis. If required, a risk assessment report describes potential adverse effects caused by the presence of regulated substances. If required, a cleanup plan evaluates the abilities of potential remedies to achieve remedy requirements.

For further information concerning plans or reports, contact the Environmental Cleanup Program manager in the Department regional office after which the notice of receipt of plans or reports appears. If information concerning plans or reports is required in an alternative form, contact the Community Relations Coordinator at the appropriate regional office. TDD users may telephone the Department through the AT&T Relay Service at (800) 654-5984.

The Department has received the following plans and reports:

*Southeast Region: Environmental Cleanup Program Manager, 2 East Main Street, Norristown, PA 19401.*

**Lot 52, Olmsted**, Pocopson Township, **Chester County**. Eric B. Schmidley, P. G., Apex Environmental, Inc., 269 Great Valley Parkway, Malvern, PA 19355, on behalf of Michael and Myra Evers, 8 Edmondson Dr., West Chester, PA 19382, has submitted a Final Report concerning remediation of site soil contaminated with arsenic. The report is intended to document remediation of the site to meet the Statewide Health Standard.

**Atkinson Residence**, Upper Dublin Township, **Montgomery County**. Ethan Prout, P. G., American Resource Consultants, Inc., P. O. Box 579, Quakertown, PA 18951, on behalf of Mr. Atkinson, 1432 Mundock Rd., Upper

Dublin Township, Montgomery County, has submitted a Final Report concerning remediation of site soil contaminated with no. 2 fuel oil. The report was submitted within 90 days of the release and is intended to document remediation of the site to meet the Statewide Health Standard.

**Hull Corporation Site**, Upper Moreland Township, **Montgomery County**. Mark. J. Irani, P. G., Advantage Environmental Consultants, LLC, 3101 Mt. Carmel Ave., Suite 3, Glenside, PA 19038, on behalf of Hull Corp., 21 Bonair Dr., Warminster, PA 18974, has submitted a Final Report concerning remediation of site soil contaminated with PCB, BTEX, PAH and solvents; and groundwater contaminated with solvents and VOCs. The report is intended to document remediation of the site to meet Site-Specific Standards.

*Southcentral Region: Environmental Cleanup Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.*

**Former SICO Lubrication Plant**, Mount Joy Borough, **Lancaster County**. Onesky Engineering, Inc., 210 Carter Drive, Suite 8, West Chester, PA 19382, on behalf of The SICO Foundation, P. O. Box 127, Mount Joy, PA 17552, submitted a Remedial Investigation Report concerning remediation of site soils and groundwater contaminated with BTEX. The applicant proposes to remediate the site to meet the requirements for a combination of the Site-Specific and Statewide Health Standards.

*Northcentral Region: Environmental Cleanup Program Manager, 208 West Third Street, Williamsport, PA 17701.*

**Wise Foods, Inc.**, Berwick, Berwick Borough, **Columbia County**. Gannett Fleming, Inc., on behalf of Wise Foods, Inc., 228 Raseley Street, Berwick, PA 18603, has submitted a Final Report concerning groundwater contaminated with 1,1,1-Trichloroethane, 1,1-Dichloroethane and 1,1-Dichloroethene. This Final Report is intended to demonstrate attainment of the Statewide Health Standard. See additional information in the Applications section of this *Pennsylvania Bulletin*.

*Southwest Region: Environmental Cleanup Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.*

**Flint Ink**, Borough of Sharpsburg, **Allegheny County**. Martin Knuth, Civil & Environmental Consultants, Inc., 333 Baldwin Road, Pittsburgh, PA 15205 (on behalf of Norfolk-Southern RR, 425 Holiday Drive, Pittsburgh, PA 15220 and Flint Ink, 4600 Arrowhead Drive, Ann Arbor, MI 48105) has submitted a Remedial Investigation and Cleanup Plan concerning remediation of site soil and groundwater contaminated with lead and heavy metals. The reports are intended to document remediation of the site to meet the Site-Specific Standard.

**BP Site 07022**, North Huntingdon Township **Allegheny County**. Heather Fazekas, 2020 Ardmore Boulevard, Pittsburgh, PA 15221 (on behalf of Nancy Eisaman, Writings on the Wall, 7950 Lincoln Highway, North Huntingdon, PA 15642 and Richard Blackburn, BP Products North America, Inc., 1 West Pennsylvania Ave., Suite 440, Towson, MD 21204) has submitted Final Report for soil contaminated with constituents associated with waste oil, diesel fuel and gasoline. The reports are intended to document remediation of the site to meet the Statewide Health Standard.

**6260 Broad Street**, City of Pittsburgh, **Allegheny County**. William G. Weir, Civil & Environmental Consultants, Inc., 333 Baldwin Road, Pittsburgh, PA 15205 and Plumbers Equipment Company, 8,150 North Lehigh

Street, Morton Grove, IL 60053 (on behalf of URA of Pittsburgh, 200 Ross Street, Pittsburgh, PA 15219) has submitted a Final Report concerning the remediation of site soil and groundwater contaminated with PAHs and solvents. The report is intended to document remediation of the site to meet the Site-Specific Standard.

**Elrama NIKE Site PI-43 (Launcher and Control Facilities)**, Union Township, **Washington County**. John Scrabis, P. E., MACTEC Engineering and Consulting, Inc., 700 North Bell Avenue, Suite 200, Carnegie, PA 15106 (on behalf of Steven R. Lenney, Deputy Commander, United States Army—Charles E. Kelly Support Facility, 6 Lobaugh Street, Oakdale, PA 15071) has submitted a Remedial Investigation Report and a Final Report concerning the remediation of site soil contaminated with TCE and arsenic. The Reports are intended to document the remediation of the site to meet the Background Standard for arsenic and Site-Specific Standard for TCE.

*Northwest Region: Environmental Cleanup Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481.*

**National Castings Former**, City of Sharon, **Mercer County**. Deborah Perry, Compliance Env. Services, 2700 Kirila Drive, Hermitage, PA 16148 on behalf of David Grande, Shenango Valley Industrial Development Corp., 41 Chestnut St., Sharon, PA 16146 has submitted a Baseline Environmental Report concerning the remediation of site soil and groundwater contaminated with chlorinated solvents, diesel fuel, fuel oil nos. 1, 2, 4, and 6, inorganics, kerosene, leaded gasoline, lead, MTBE, new motor oil, other organics, PCB, unleaded gasoline and used motor oil. The report is intended to document remediation of the site to meet the special industrial area requirements.

## LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

### UNDER ACT 2, 1995

#### PREAMBLE 3

**The Department has taken action on the following plans and reports under the Land Recycling and Environmental Remediation Standards Act (35 P. S. §§ 6026.101—6026.908).**

Provisions of 25 Pa. Code § 250.8, administration of the Land Recycling and Environmental Remediation Standards Act (act), require the Department of Environmental Protection (Department) to publish in the *Pennsylvania Bulletin* a notice of final actions on plans and reports. A final report is submitted to document cleanup of a release of a regulated substance at a site to one of the remediation standards of the act. A final report provides a description of the site investigation to characterize the nature and extent of contaminants in environmental media, the basis of selecting the environmental media of concern, documentation supporting the selection of residential or nonresidential exposure factors, a description of the remediation performed and summaries of sampling methodology and analytical results which demonstrate that the remediation has attained the cleanup standard selected. Plans and reports required by provisions of the act for compliance with selection of remediation to a site-specific standard, in addition to a final report, include a remedial investigation report, risk assessment report and cleanup plan. A remedial investigation report includes conclusions from the site investigation, concentration of regulated substances in environmental media,

benefits of refuse of the property and, in some circumstances, a fate and transport analysis. If required, a risk assessment report describes potential adverse effects caused by the presence of regulated substances. If required, a cleanup plan evaluates the abilities of potential remedies to achieve remedy requirements. A work plan for conducting a baseline remedial investigation is required by provisions of the act for compliance with selection of a special industrial area remediation. The baseline remedial investigation, based on the work plan, is compiled into the baseline environmental report to establish a reference point to show existing contamination, describe proposed remediation to be done and include a description of existing or potential public benefits of the use or reuse of the property. The Department may approve or disapprove plans and reports submitted. This notice provides the Department's decision and, if relevant, the basis for disapproval.

For further information concerning the plans and reports, contact the Environmental Cleanup Program manager in the Department regional office before which the notice of the plan or report appears. If information concerning a final report is required in an alternative form, contact the Community Relations Coordinator at the appropriate regional office. TDD users may telephone the Department through the AT&T Relay Service at (800) 654-5984.

The Department has received the following plans and reports:

*Southcentral Region: Environmental Cleanup Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.*

**Kimmel Iron and Metal Co., Inc.**, Manheim Township, **Lancaster County**. Marks Environmental, Inc., 140 Bollinger Road, Elverson, PA 19520, on behalf of the Kimmel Estate c/o Harry Yost, Esq., Appel & Yost, LLC, 33 North Duke Street, Lancaster, PA 17602 and Franklin & Marshall College, P. O. Box 3003, Lancaster, PA 17604-3003, submitted a Remedial Investigation and Cleanup Plan concerning remediation of site soils contaminated with inorganics and lead and site groundwater contaminated with chlorinated solvents. The applicant proposes to remediate the site to meet the Site-Specific Standard. The Remedial Investigation Report and the Cleanup Plan were approved by the Department on May 28, 2004.

*Northcentral Region: Environmental Cleanup Program Manager, 208 West Third Street, Williamsport, PA 17701.*

**PPL Sunbury Steam Electric Station**, Shamokin Dam Borough and Monroe Township, **Snyder County**. Penn Environmental & Remediation, Inc. on behalf of PPL Electric Utilities Corporation, Two North Ninth Street, Allentown, PA 28202-2279, has submitted a Final Report concerning groundwater contaminated with diesel fuel. This Final Report demonstrated attainment of the Site-Specific Standard and was approved by the Department on May 24, 2004.

*Southwest Region: Environmental Cleanup Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.*

**Operation Nehemiah/Former Caruso Property**, Wilkensburg Borough, **Allegheny County**. Christopher Hartigan, The Fourth River Company, 1550 Obey Street, Suite 201, Pittsburgh, PA 15205 (on behalf of Constance Balthrop, 235 Eastgate Drive, Pittsburgh, PA 15235) has submitted a Final Report for groundwater contaminated with lead, gasoline constituents and tetrachloroethylene and its products of decomposition. The Final Report

demonstrated attainment of the Statewide Health Standard and was approved by the Department on June 3, 2004.

**Bedford/Hope VI Redevelopment Area**, City of Pittsburgh, **Allegheny County**. Frank W. Benaquista, Earth Sciences Consultants, Inc., One Triangle Lane, Export, PA 15632 (on behalf of Housing Authority of the City of Pittsburgh, 200 Ross Street, Pittsburgh, PA 15219 and MBA Development Corp., Tom Currell, 1101 Lucas Avenue, St. Louis, MO 63101-1179) has submitted a Remedial Investigation Report, Cleanup Plan and Final Report concerning remediation of site soil contaminated with Inorganics. The Remedial Investigation, Cleanup Plan and Final Report demonstrated attainment of the Site-Specific Standard and were approved by the Department on May 25, 2004.

#### HAZARDOUS WASTE TRANSPORTER LICENSE

##### **Actions on applications for Hazardous Waste Transporter License received under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003) and regulations to transport hazardous waste.**

*Central Office: Bureau of Land Recycling and Waste Management, Division of Hazardous Waste Management, P. O. Box 8471, Harrisburg, PA 17105-8471.*

##### *Hazardous Waste Transporter License Renewed*

**Berner Trucking, Inc.**, P. O. Box 660, Dover, OH 44622-0660. License No. PA-AH 0382. Effective May 21, 2004.

**Maumee Express, Inc.**, P. O. Box 278, Somerville, NJ 08876. License No. PA-AH 0420. Effective June 2, 2004.

**Providence Environmental, Inc.**, 312 Sharpe Road, Columbia, SC 29203. License No. PA-AH 0695. Effective June 2, 2004.

**Radiac Research Corp.**, 261 Kent Avenue, Brooklyn, NY 11211. License No. PA-AH S007. Effective May 17, 2004.

**US Liquids of Pennsylvania, Inc. d/b/a US Liquids**, 1800 Columbus Avenue, Suite 5, Pittsburgh, PA 15233-2247. License No. PA-AH 0651. Effective June 1, 2004.

*Hazardous Waste Transporter License Voluntarily Terminated*

**Onyx Special Services, Inc.**, 1275 Mineral Springs Drive, Port Washington, WI 53074. License No. PA-AH S197. Effective May 25, 2004.

#### HAZARDOUS WASTE TREATMENT, STORAGE AND DISPOSAL FACILITIES

##### **Permits issued under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003) and regulations to operate a hazardous waste treatment, processing, storage, or disposal facility.**

*Southwest Regional Office, Regional Solid Waste Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, (412) 442-4000.*

**Permit No. PAD981736143. Safety-Kleen Corporation, Johnstown Service Center**, 150 Allenbill Drive, Johnstown, PA 15904. Operation of a hazardous waste container and tank storage facility in Richland Township, **Cambria County**. Permit issued in the Regional Office on June 2, 2004.

#### MUNICIPAL WASTE GENERAL PERMITS

##### **General Permit Reissued under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003), the Municipal Waste Planning, Recycling and Waste Reduction Act (53 P. S. §§ 4000.101—4000.1904) and municipal waste regulations for a general permit to operate municipal waste processing facilities and/or the beneficial use of municipal waste.**

*Central Office: Division of Municipal and Residual Waste, Rachel Carson State Office Building, 14th Floor, 400 Market Street, Harrisburg, PA 17105-8472.*

**General Permit No. WMGM002E. Magellan EnviroGas Monroeville, LLC**, 5160 Parkstone Drive, Chantilly, VA 20151. General Permit No. WMGM002E is for processing and beneficial use of landfill gas (LFG) to produce medium to high Btu landfill gas, generated by the landfill disposal of municipal or residual waste, for use as a substitute for natural gas or other fuel. This general permit was originally issued on January 26, 1998, to Allegheny Energy Resources, Inc. The processing and beneficial use of LFG produced at this Monroeville landfill gas facility is now under the ownership and management of Magellan EnviroGas Monroeville, LLC. Central Office approved the reissuance of this general permit, to Magellan EnviroGas Monroeville, LLC, on May 19, 2004. This notice is being published to correct the issue date, which was incorrectly published at 34 Pa.B. 2950 (June 5, 2004).

Persons interested in obtaining more information or copies of the general permit should contact Ronald C. Hassinger, Chief, General Permits and Beneficial Use Section, Division of Municipal and Residual Waste, Bureau of Land Recycling and Waste Management, P. O. Box 8472, Harrisburg, PA 17105-8472, (717) 787-7381. TDD users should contact the Department through the Pennsylvania Relay Service, (800) 654-5984.

**General Permit Application No. WMGI001R001. Magee-Womens Hospital**, 300 Halket Street, Pittsburgh, PA 15213. General Permit No. WMGI001 is for the operation of an infectious waste microwave disinfection unit. This general permit was issued as a renewal of Magee-Womens Hospital's original registration under General Permit WMGI001 issued in December 1993. The general permit renewal was issued by Central Office on May 27, 2004.

#### RESIDUAL WASTE GENERAL PERMITS

##### **Permits Issued under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003), the Municipal Waste Planning, Recycling and Waste Reduction Act (53 P. S. §§ 4000.101—4000.1904) and residual waste regulations for a general permit to operate residual waste processing facilities and the beneficial use of residual waste other than coal ash.**

*Central Office: Division of Municipal and Residual Waste, Rachel Carson State Office Building, 14th Floor, 400 Market Street, Harrisburg, PA 17105-8472.*

**General Permit Application No. WMGR013. Larami Metal Company, Inc.**, 1173 Kings Mill Road, York, PA 17405. General Permit No. WMGR013 is for the processing (that is, sorting, de-reeling, shearing, stripping and sweating of lead sheathed cables and other lead materials) and beneficial use of waste telecommunication cables as a raw or reclaimed materials. This general

permit was issued as a renewal of the Larami Metal Company, Inc. original General Permit WMGR013 issued on May 20, 1994. The general permit renewal was issued by the Central Office on June 7, 2004.

Persons interested in obtaining more information or copies of the general permit should contact Ronald C. Hassinger, Chief, General Permits and Beneficial Use Section, Division of Municipal and Residual Waste, Bureau of Land Recycling and Waste Management, Rachel Carson State Office Building, P. O. Box 8472, Harrisburg, PA 17105-8472, (717) 787-7381. TDD users should contact the Department through the Pennsylvania Relay Service, (800) 654-5984.

#### OPERATE WASTE PROCESSING OR DISPOSAL AREA OR SITE

**Permits Issued under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003), the Municipal Waste Planning, Recycling and Waste Reduction Act (53 P. S. §§ 4000.101—4000.1904) and regulations to operate solid waste processing or disposal area or site.**

*Northeast Region: Regional Solid Waste Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790.*

**Permit No. 100933. Alliance Sanitary Landfill, Inc.,** 398 South Keyser Ave., Taylor, PA 18517. A Major Permit Modification approving the Vegetative Cover Demonstration Project at this municipal waste landfill in Taylor Borough and Ransom Township, **Lackawanna County**. The permit was issued by the regional office on April 15, 2004.

**Permit No. 101600. Waste Reduction and Recycling Center,** 1200 Sans Souci Parkway, Wilkes-Barre, PA 18702. A Major Permit Modification approving the Radiation Protection Action Plan (RPAP) at this municipal waste transfer and processing facility in Hanover Township, **Luzerne County**. The permit was issued by the regional office on March 23, 2004.

**Permit No. 101392. Lehigh Valley Recycling, Inc.,** 320 Godshall Drive, Harleysville, PA 19438. A Major Permit Modification approving the RPAP at this municipal waste transfer facility in North Whitehall Township, **Lehigh County**. The permit was issued by the regional office on March 15, 2004.

#### AIR QUALITY

**General Plan Approval and Operating Permit Usage Authorized under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127 to construct, modify, reactivate or operate air contamination sources and associated air cleaning devices.**

*Northeast Region: Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711-0790; Mark Wejkszner, New Source Review Chief, (570) 826-2531.*

**40-312-043GP2: Scranton-Altoona Terminals Corp.** (Dupont East Terminal, Harrisburg, PA 17105) on June 2, 2004, to construct and operate two fuel storage tanks (tanks 26 and 27) at their facility at 801 Suscon Road, Pittston Township, **Luzerne County**.

**45-310-028: Bill Barry Excavating, Inc.** (R. R. 3, Box 3271, Cresco, PA 18326) on June 2, 2004, to construct and operate a portable stone crushing plant and associated air cleaning device at their facility on Sand Spring Road, Barrett Township, **Monroe County**.

**45-312-001GP1: Aventis Pasteur, Inc.** (Discovery Drive, Swiftwater, PA 18370) on June 2, 2004, to construct and operate fuel storage tank no. 8 at their facility in Pocono Township, **Monroe County**.

*Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701; David Aldenderfer, Program Manager, (570) 327-3637.*

**GP3-59-03: Hanson Aggregates Pennsylvania, Inc.** (2200 Springfield Pike, Connellsville, PA 15425) on May 19, 2004, to deny authorization to construct and operate a portable stone crushing plant under the "General Plan Approval and General Operating Permit for Portable Nonmetallic Mineral Processing Plants" due to the fact that one of the diesel engines incorporated in the plant cannot comply with the conditions of the respective general plan approval and general operating permit at the Blossburg Quarry in Liberty Township, **Tioga County**.

*Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481; Devendra Verma, New Source Review Chief, (814) 332-6940.*

**25-941: McDonald Sand and Gravel, Inc.** (9856 Drury Road, Girard, PA 16417) on May 31, 2004, to operate a portable mineral processing plant in Girard Township, **Erie County**.

**Plan Approvals Issued under the Air Pollution Control Act and regulations in 25 Pa. Code Chapter 127, Subchapter B relating to construction, modification and reactivation of air contamination sources and associated air cleaning devices.**

*Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401; Thomas McGinley, New Source Review Chief, (484) 250-5920.*

**46-0244: Acme Corrugated Box Co., Inc.** (2700 Turnpike Drive, Hatboro, PA 19040) on May 24, 2004, to operate a steam generator in Upper Moreland Township, **Montgomery County**.

*Northeast Region: Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711-0790; Mark Wejkszner, New Source Review Chief, (570) 826-2531.*

**35-399-041: CINRAM Manufacturing, Inc.** (1400 East Lackawanna Avenue, Olyphant, PA 18447) on May 10, 2004, to construct 21 printing and screen cleaning stations at their facility in Olyphant Borough, **Lackawanna County**.

*Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110; Ronald Davis, New Source Review Chief, (717) 705-4702.*

**36-03149A: Crimson Fire Aerials, Inc.** (1828 Freedom Road, Lancaster, PA 16601) on June 2, 2004, to install one spray booth in East Lampeter Township, **Lancaster County**.

*Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701; David Aldenderfer, Program Manager, (570) 327-3637.*

**41-00028A: Koppers Industries, Inc.** (436 Seventh Avenue, Suite 1800, Pittsburgh, PA 15219) on May 18, 2004, to construct a 33,475,000 Btu per hour no. 2 fuel oil-fired boiler equipped with a low NOx burner in Clinton Township, **Lycoming County**.

**41-310-001H: Hanson Aggregates Pennsylvania, Inc.** (2200 Springfield Pike, Connellsville, PA 15425) on May 25, 2004, to construct a stone crusher and associated

air cleaning devices (two water spray dust suppression system spray nozzles) in an existing stone crushing plant at their Pine Creek Quarry in Limestone Township, **Lycoming County**.

**47-00001A: PPL Montour LLC** (P. O. Box 128, Washingtonville, PA 17884) on May 28, 2004, to install air cleaning devices (two sodium sulfite flue gas injection systems) on two bituminous coal-fired electric utility boilers (units 1 and 2) at their Montour Steam Electric Station in Derry Township, **Montour County**.

*Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481; Devendra Verma, New Source Review Chief, (814) 332-6940.*

**25-911A: Humane Society of Northwest Pennsylvania** (2407 Zimmerly Road, Erie, PA 16508) on June 1, 2004, to construct a small animal crematory in Millcreek Township, **Erie County**.

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**Plan Approval Revisions Issued including Extensions, Minor Modifications and Transfers of Ownership under the Air Pollution Control Act and 25 Pa. Code §§ 127.13, 127.13a and 127.32.**

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*Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401; Thomas McGinley, New Source Review Chief, (484) 250-5920.*

**46-0005M: Merck and Co., Inc.** (Sumneytown Pike, P. O. Box WP20, West Point, PA 19486) on May 27, 2004, to operate a natural gas-fired combustion turbine in Upper Gwynedd Township, **Montgomery County**.

**46-0005Q: Merck and Co., Inc.** (Sumneytown Pike, P. O. Box WP20, West Point, PA 19486) on June 3, 2004, to operate a 750 and 1,500 kW emergency generator in Upper Gwynedd Township, **Montgomery County**.

*Northeast Region: Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711-0790; Mark Wejkszner, New Source Review Chief, (570) 826-2531.*

**39-313-042: Filmtech Corp.** (2121 31st Street SW, Allentown, PA 18103) on May 27, 2004, to modify five polyethylene extrusion lines and associated air cleaning devices at their facility in Allentown, **Lehigh County**. The Plan Approval has been extended.

**48-302-103: Newstech PA LP** (6 Horwith Drive, Northampton, PA 18067) on May 27, 2004, to reactivate a boiler at their facility in Northampton Borough, **Northampton County**. The Plan Approval has been extended.

*Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701; David Aldenderfer, Program Manager, (570) 327-3637.*

**8-318-027: Mill's Pride—Pennsylvania** (100 Lamoka Road, Sayre, PA 18840) on June 1, 2004, to allow the use of glues with a residual formaldehyde content in a wood kitchen cabinet door manufacturing and finishing operation provided that the resultant formaldehyde emissions are less than 1.0 ton in any 12 consecutive month period in Athens Township, **Bradford County**. Formaldehyde is an HAP.

*Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745; William Charlton, New Source Review Chief, (412) 442-4174.*

**65-00143A: Hanson Aggregates PMA, Inc.** (2200 Springfield Pike, Connellsville, PA 15425) on June 2, 2004, to install two diesel engines/generators in Derry Township, **Westmoreland County**. This plan approval was extended.

**04-00695A: Norfolk Southern Railway Co.** (425 Holiday Drive, Pittsburgh, PA 15220) on June 3, 2004, at their Conway Yard in the borough of Conway, **Beaver County**. PA-04-00695A will be revised as follows:

- References to WDLF were removed throughout.
- Condition 8 replaced NSPS 40 CFR 60.42c with 25 Pa. Code § 123.22(d)(1). However, percent sulfur restrictions (Condition 11) which will keep the SO<sub>2</sub> emission rate below the more stringent NSPS emission rate of 0.50 lb/mmBtu of heat input will remain in place.
- Condition 12 replaced NSPS 40 CFR 60.42c(h) and 60.48c(f) with 25 Pa. Code § 127.12b, but certification requirements will remain the same.
- Condition 14 added "The Owner/Operator may request a reduction in the inspection frequency, in writing, to once per week provided there are no observations by the Owner/Operator or by the Department of visible stack, fugitive and malodorous emissions for the previous six-month period of operation."
- Condition 16b added "Natural gas consumption."
- Condition 18, quarterly reporting changed to annual Air Information Management System reporting. NSPS references deleted.

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**Title V Operating Permits Issued under the Air Pollution Control Act and 25 Pa. Code Chapter 127, Subchapter G.**

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*Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401; Edward Jurdon Brown, Facilities Permitting Chief, (484) 250-5920.*

**15-00105: Mobil Pipe Line Co.** (8 South Malin Road, Frazer, PA 19355) on June 1, 2004, to amend their Title V Operating Permit in East Whiteland Township, **Chester County**.

*Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110; Yasmin Neidlinger, Facilities Permitting Chief, (717) 705-4702.*

**36-05053: Buck Co., Inc.** (897 Lancaster Pike, Quarryville, PA 17566-9738) on June 1, 2004, to operate their ferrous and nonferrous foundry in Providence Township, **Lancaster County**. This is a renewal of the Title V operating permit.

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**Operating Permits for Non-Title V Facilities Issued under the Air Pollution Control Act and 25 Pa. Code Chapter 127, Subchapter F.**

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*Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110; Ronald Davis, New Source Review Chief, (717) 705-4702.*

**38-03001: Lebanon Chemical Corp.** (1600 East Cumberland Street, Lebanon, PA 17042) on May 28, 2004, for fertilizer drying and bagging operations controlled by a fabric collector in South Lebanon Township, **Lebanon County**.

*Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745; William Charlton, New Source Review Chief, (412) 442-4174.*

**11-00279: Forest Lawn Cemeteries, Inc.** (1530 Frankstown Road, Johnstown, PA 15902) on June 2, 2004, for a State-only operating permit for a crematory in Conemaugh Township, **Cambria County**.

*Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481; Eric Gustafson, Facilities Permitting Chief, (814) 332-6940.*

**61-00191: Seneca Printing and Label, Inc.** (Debence Drive, Franklin, PA 16323) on June 3, 2004, for a Natural Minor Operating Permit to operate their printing and label plant in Sandycreek Township, **Venango County**.

**20-00264: Salt Painting Co.** (17918 SR 198, Saegertown, PA 16433) on June 2, 2004, for a Natural Minor Operating Permit to perform abrasive sandblasting and surface coating operation in Hayfield Township, **Crawford County**.

**43-00055: Oldcastle Retail Inc.** (97 Main Street, Fredonia, PA 16124) on June 2, 2004, for a Natural Minor Operating Permit to operate their concrete plant in Fredonia Borough, **Mercer County**.

**61-00204: Franklin Bronze and Alloy Co., Inc.** (655 Grant Street, Franklin, PA 16323) on June 3, 2004, for a Natural Minor Operating Permit for a mold de-wax furnace and after-burner at their investment casting foundry in the City of Franklin, **Venango County**.

**Operating Permit Revisions Issued including Administrative Amendments, Minor Modifications or Transfers of Ownership under the Air Pollution Control Act and 25 Pa. Code §§ 127.412, 127.450, 127.462 and 127.464.**

*Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481; Eric Gustafson, Facilities Permitting Chief, (814) 332-6940.*

**62-00032: Ellwood National Forge Co.** (1 Front Street, Irvine, PA 16329) on June 3, 2004, for an administrative amendment of the Synthetic Minor operating permit to operate an iron and steel forging facility in Brokenstraw Township, **Warren County**. The amendment incorporates the conditions of Plan Approval 62032A.

**42-00117: Zippo Manufacturing Co.** (Congress Street Extension, Bradford, PA 16701) on May 28, 2004, for an administrative amendment of the Natural Minor operating permit to operate a fabricated metal products facility in Bradford, **McKean County**. The amendment incorporates the conditions of Plan Approval 42117A.

## ACTIONS ON COAL AND NONCOAL MINING ACTIVITY APPLICATIONS

**Actions on applications under the Surface Mining Conservation and Reclamation Act (52 P. S. §§ 1396.1—1396.19a); the Noncoal Surface Mining Conservation and Reclamation Act (52 P. S. §§ 3301—3326); The Clean Streams Law (35 P. S. §§ 691.1—691.1001); the Coal Refuse Disposal Control Act (52 P. S. §§ 30.51—30.66); and The Bituminous Mine Subsidence and Land Conservation Act (52 P. S. §§ 1406.1—1406.21). The final action on each application also constitutes action on the request for 401 Water Quality Certification and the NPDES permit application. Mining activity permits issued in response to the applications will also address the application permitting requirements of the following statutes: the Air Quality Control Act (35 P. S. §§ 4001—4015); the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27); and the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003).**

### Coal Permit Actions

*California District Mining Office: 25 Technology Drive, California Technology Park, Coal Center, PA 15423, (724) 769-1100.*

**30910701 and NPDES Permit No. PA0214027. Chess Coal Company** (155 Chess Road, Smithfield, PA 15478-9611), to renew the permit for the Refuse Site No. 7 in Dunkard Township, **Greene County** and related NPDES permit. No additional discharges. Permit issued June 1, 2004.

*Cambria District Mining Office: 286 Industrial Park Road, Ebensburg, PA 15931, (814) 472-1900.*

**56030101 and NPDES Permit No. PA0249360. Tomcat Coal** (309 Coalyard Road, Rockwood, PA 15557) for commencement, operation and restoration of a bituminous surface mine and for discharge of treated mine drainage in Milford Township, **Somerset County**, affecting 33.2 acres. Receiving streams: unnamed tributaries to and South Glade Creek (WWF). There are no potable water supply intakes within 10 miles downstream. Application received January 6, 2003. Permit issued June 2, 2004.

### Noncoal Permit Actions

*Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901-2454, (570) 621-3118.*

**58990840T. Herbert Kilmer** (R. R. 4 Box 56C, Montrose, PA 18801), transfer of an existing quarry operation from Joseph Manzer in New Milford Township, **Susquehanna County**, affecting 5.0 acres. Receiving streams: none. Application received October 16, 2003. Transfer issued May 27, 2004.

*Cambria District Mining Office: 286 Industrial Park Road, Ebensburg, PA 15931, (814) 472-1900.*

**Permit No. 56980301 and NPDES Permit No. PA0234991. Keystone Lime Company** (P. O. Box 278, Springs, PA 15562), renewal of NPDES permit, Addison and Elk Lick Townships, **Somerset County**. Receiving streams: Christener Run, UNT Zehner Run (HQ-CWF). There are no potable water supply intakes within 10 miles downstream. NPDES renewal application received January 16, 2004. Permit issued June 3, 2004.

*Moshannon District Mining Office: 186 Enterprise Drive, Philipsburg, PA 16866, (814) 342-8200.*

**4976SM4 and NPDES Permit No. PA0608858. East-ern Industries, Inc.** (4401 Camp Meeting Road, Suite 200, Center Valley, PA 18034), renewal of an existing NPDES permit in Middlebury Township, **Tioga County**, affecting 38.1 acres. Receiving streams: Norris Brook. Application received March 25, 2004. Permit issued June 1, 2004.

**41030801. John W. Pepper** (R. D. 1, Box 54, Granville Summit, PA 16926), commencement, operation and restoration of a small industrial minerals (bluestone) permit in McNett Township, **Lycoming County**, affecting 1 acre. Receiving streams: unnamed tributaries to Lycoming Creek and to Hawk Run. Application received May 28, 2003. Permit issued May 25, 2004.

**14030803. Richard B. Taylor** (2452 S. Eagle Valley Road, Julian, PA 16844), commencement, operation and restoration of a small industrial minerals (shale) permit in Union Township, **Centre County**, affecting 1 acre. Receiving streams: Bald Eagle Creek, tributary to West Branch Susquehanna River. Application received November 26, 2003. Permit issued May 25, 2004.



## ACTIONS ON BLASTING ACTIVITY APPLICATIONS

**Actions on applications under the Explosives Acts of 1937 and 1957 (73 P.S. §§ 151—161) and 25 Pa. Code § 211.124. Blasting activity performed as part of a coal or noncoal mining activity will be regulated by the mining permit for that coal or noncoal mining activity.**

*Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901-2454, (570) 621-3118.*

**13044001. Austin Powder Company** (P. O. Box 289, Northampton, PA 18067), construction blasting at Locust Ridge in Franklin Township, **Carbon County**, with an expiration date of September 3, 2004. Permit issued June 2, 2004.

**64044004. Explosive Services, Inc.** (7 Pine Street, Bethany, PA 18431), construction blasting at Walenpaupack Lake Estates in Paupack Township, **Wayne County**, with an expiration date of July 3, 2005. Permit issued June 2, 2004.

**22044014. Hall Explosives, Inc.** (2981 Elizabethtown Road, Hershey, PA 17033), construction blasting at Capitol Mini Storage in Londonderry Township, **Dauphin County**, with an expiration date of June 30, 2005. Permit issued June 2, 2004.

**46044018. Explo-Craft, Inc.** (P. O. Box 1332, West Chester, PA 19380), construction blasting at Corinthian Condominiums in Lower Merion Township, **Montgomery County**, with an expiration date of June 26, 2005. Permit issued June 2, 2004.

**21044038. Follmer Excavating, Inc.** (6 Summer Drive, Dillsburg, PA 17019) and **John W. Gleim, Jr., Inc.** (625 Hamilton Street, Carlisle, PA 17013), construction blasting at Village of Brandywine in Hampden Township, **Cumberland County**, with an expiration date of November 30, 2004. Permit issued June 3, 2004.

**21044040. Hall Explosives, Inc.** (2981 Elizabethtown Road, Hershey, PA 17033), construction blasting at South Middleton Township Pump Station 11 in South Middleton Township, **Cumberland County**, with an expiration date of January 31, 2005. Permit issued June 3, 2004.

**21044039. Hall Explosives, Inc.** (2981 Elizabethtown Road, Hershey, PA 17033), construction blasting at Good Hope Farms in Hampden Township, **Cumberland County**, with an expiration date of June 30, 2005. Permit issued June 3, 2004.

**67044028. Keystone Blasting Service** (381 Reifsnyder Road, Lititz, PA 17543), construction blasting at Lauxmont Farms Development in Lower Windsor Township, **York County**, with an expiration date of October 31, 2004. Permit issued June 3, 2004.

**48044022. Allan A. Myers, L. P.** (P. O. Box 98, Worcester, PA 19490), construction blasting at Foxwood Farms Development in Lower Nazareth Township, **Northampton County**, with an expiration date of July 7, 2005. Permit issued June 4, 2004.

**48044023. Allan A. Myers, L. P.** (P. O. Box 98, Worcester, PA 19490), construction blasting at Penn Dixie Development in Upper Nazareth Township, **Northampton County**, with an expiration date of July 4, 2005. Permit issued June 4, 2004.

**52044008. E. R. Linde Construction Corp.** (9 Collan Park, Honesdale, PA 18431), construction blasting at

Woodloch Reserve in Lackawaxen Township, **Pike County**, with an expiration date of July 6, 2005. Permit issued June 4, 2004.

**64044005. E. R. Linde Construction Corp.** (9 Collan Park, Honesdale, PA 18431), construction blasting at Leeward Asphalt Site in Palmyra Township, **Wayne County**, with an expiration date of July 2, 2005. Permit issued June 4, 2004.

**45044025. Explosive Services, Inc.** (7 Pine Street, Bethany, PA 18431), construction blasting at Oak Street Towne Houses in East Stroudsburg Township, **Monroe County**, with an expiration date of May 24, 2005. Permit issued June 4, 2004.

**45044026. Explosive Services, Inc.** (7 Pine Street, Bethany, PA 18431), construction blasting at Lot No. 201 Wood Edge in Middle Smithfield Township, **Monroe County**, with an expiration date of May 24, 2005. Permit issued June 4, 2004.

**45044027. Explosive Services, Inc.** (7 Pine Street, Bethany, PA 18431), construction blasting at Lot No. 105 Upper Grandview Road in Paradise Township, **Monroe County**, with an expiration date of May 27, 2005. Permit issued June 4, 2004.

**09044014. Schlouch, Inc.** (Excelsior Industrial Park, P. O. Box 69, Blandon, PA 19510), construction blasting at Wynnefield Estates in Hilltown Township, **Bucks County**, with an expiration date of July 7, 2005. Permit issued June 4, 2004.

**22044015. Brubacher Excavating, Inc.** (P. O. Box 528, Bowmansville, PA 17507), construction blasting in Londonderry Township, **Dauphin County**, with an expiration date of July 2, 2005. Permit issued June 4, 2004.

**36044050. Brubacher Excavating, Inc.** (P. O. Box 528, Bowmansville, PA 17507), construction blasting in East Earl Township, **Lancaster County**, with an expiration date of July 2, 2005. Permit issued June 4, 2004.

**46044019. Labrador Construction** (P. O. Box 1379, Marshalls Creek, PA 18335) and **Austin Powder Company** (P. O. Box 289, Northampton, PA 18067), construction blasting for Norriton Business Campus in East Norriton Township, **Montgomery County**, with an expiration date of July 1, 2004. Permit issued June 4, 2004.

*Moshannon District Mining Office: 186 Enterprise Drive, Philipsburg, PA 16866, (814) 342-8200.*

**14044011. H. R. Excavating** (192 Ridge Lane, Warriors Mark, PA 16877), for construction blasting in Ferguson Township, **Centre County**, with an expected duration of 20 days. Permit issued June 1, 2004.

Persons aggrieved by an action may appeal, under section 4 of the Environmental Hearing Board Act (35 P.S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law), to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users should contact the Environmental Hearing Board (Board) through the Pennsylvania Relay Service, (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin*, unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary of the Board



at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decision law.

For individuals who wish to challenge an action, appeals must reach the Board within 30 days. A lawyer is not needed to file an appeal with the Board.

Important legal rights are at stake, however, so individuals should show this notice to a lawyer at once. Persons who cannot afford a lawyer may qualify for free pro bono representation. Call the Secretary to the Board at (717) 787-3483 for more information.

## FEDERAL WATER POLLUTION CONTROL ACT SECTION 401

The Department of Environmental Protection (Department) has taken the following actions on previously received permit applications, requests for Environmental Assessment approval and requests for Water Quality Certification under section 401 of the Federal Water Pollution Control Act (FWPCA) (33 U.S.C.A. § 1341).

Except as otherwise noted, the Department has granted 401 Water Quality Certification certifying that the construction and operation described will comply with the applicable provisions of sections 301—303, 306 and 307 of the FWPCA (33 U.S.C.A. §§ 1311—1313, 1316 and 1317) and that the construction will not violate applicable Federal and State water quality standards.

Persons aggrieved by an action may appeal, under section 4 of the Environmental Hearing Board Act (35 P. S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law), to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users should contact the Environmental Hearing Board (Board) through the Pennsylvania Relay Service, (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin*, unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary of the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decision law.

For individuals who wish to challenge an action, appeals must reach the Board within 30 days. A lawyer is not needed to file an appeal with the Board.

Important legal rights are at stake, however, so individuals should show this notice to a lawyer at once. Persons who cannot afford a lawyer may qualify for free pro bono representation. Call the Secretary to the Board at (717) 787-3483 for more information.

**Actions on applications for the following activities filed under the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27), section 302 of the Flood Plain Management Act (32 P. S. § 679.302) and The Clean Streams Law (35 §§ 691.1—691.702) and Notice of Final Action for Certification under section 401 of the FWPCA (33 U.S.C.A. § 1341).**

*Permits, Environmental Assessments and 401 Water Quality Certifications Issued*

## WATER OBSTRUCTIONS AND ENCROACHMENTS

*Southeast Region: Water Management Program Manager, 2 East Main Street, Norristown, PA 19401.*

**E46-950. Department of Transportation, 7000 Geerdes Boulevard, King of Prussia, PA 19406, New Hanover Township, Montgomery County, ACOE Philadelphia District.**

To perform the following activities associated with the replacement of the existing Fagleysville Road bridge a 19-foot 4-inch wide and 24-foot long single span I-beam bridge with a precast reinforced concrete box culvert. The bridge spans the West Branch of the Swamp Creek (TSF, MF). The works involved the following activities:

1. To construct and maintain the proposed structure with a waterway opening measuring 30 feet wide by 6 feet high and a roadway width of 23 feet, approximately 30-foot span with an expected waterway opening clearance of 3 feet.
2. To construct and maintain a 50-foot long temporary cofferdam across the stream to facilitate the dewatering process and accommodate the construction works.
3. To place and maintain approximately 37 cubic yards of R-6 riprap for scour protection at the inlet and outlet of the culvert.
4. To construct and maintain temporary road crossing to facilitate vehicle passage during construction works.
5. To perform minor grading in the floodway associated with bridge footings adjustment, depressing of the culvert bottom, reconstruction and grading of roadway approach.

The project proposes to temporarily impact 95 linear feet of watercourse and directly impact a total of approximately 45 linear feet of stream banks. The project site is approximately 778 feet east of the intersection of Fagleysville Road (SR 4023) and Wagner Roads (Sasamansville, PA Quadrangle N: 5.34 inches; W: 8.15 inches).

The issuance of this permit also constitutes approval of a Water Quality Certification under section 401 of the Federal Water Pollution Control Act.

**E23-441. Brandywine Conservancy, Inc., P. O. Box 141, Chadds Ford, PA 10317, Chadds Ford Township, Delaware County, ACOE Philadelphia District.**

To perform the following activities associated with the Kuerner Farm Pond Restoration Project:

1. To relocate a reach of an unnamed tributary of Harvey's Run (WWF-MF) through 450 linear feet of new channel by constructing a 2-foot high diversion wall/intake structure and routing flow around an existing drained 0.35-acre reservoir and breached dam.
2. To remove 500 cubic yards of sediment accumulation from a 0.2-acre portion of the existing drained reservoir and impacting a wetland (PEM) that has developed within drained reservoir.

The permittee is required to provide a minimum of 0.20 acre of replacement wetlands. The project is approximately 2,000 feet north of the intersection of Ring Road and Bullock Road (Wilmington North, PA Quadrangle N: 21.6 inches; W: 16.6 inches).

The issuance of this permit also constitutes approval of a Water Quality Certification under section 401 of the Federal Water Pollution Control Act.

*Northcentral Region: Water Management Program Manager, 208 West Third Street, Williamsport, PA 17701.*

**E18-370. Department of Conservation and Natural Resources**, P. O. Box 8451, Harrisburg, PA 17105-8451. Log Road Hollow Run pedestrian bridge replacement in Chapman Township, **Clinton County**, ACOE Baltimore District (Renovo West, PA Quadrangle N: 19.80 inches; W: 0.20 inch).

To remove an existing sub-standard pedestrian bridge and to construct and maintain a wooden bank-to-bank wood timber pedestrian bridge with wood-plank deck, concrete abutments, a clear span of 22 feet 10 inches over Log Road Hollow Run and the associated concrete ramped sidewalks within the 100-year floodplain used to connect a new bath house with the existing public pool in the Hyner Run State Park 3 miles north on Hyner Run Road from SR 120.

*Southwest Region: Water Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.*

**E11-303. J. M. A. Auto Sales**, 758 Lake Street, South Fork, PA 15956-1412. Sandy Run Bridge in Adams Township, **Cambria County**, Pittsburgh ACOE District (Geistown, PA Quadrangle N: 17.40 inches; W: 4.65 inches) (Latitude: 40° 20' 45" and Longitude: 78° 47' 00"). To construct and maintain a single span bridge having a clear span of 45 feet and an underclearance of 9 feet across Sandy Run (CWF) for the purpose of access to the property. The project is at a point approximately 200 feet south of the SR 219 ramp.

#### DAM SAFETY

*Central Office: Bureau of Waterways Engineering, 400 Market Street, Floor 3, P. O. Box 8554, Harrisburg, PA 17105-8554.*

**D46-341. East Greenville Borough**, P. O. Box 128, East Greenville, PA 18041-0128. To construct, operate and maintain East Greenville Waterworks Dam across Perkiomen Creek (TSF), for the purpose of rehabilitation of the water supply facility. Work includes removal and replacement of the existing dam, dredging of the impoundment area and installation of a dry hydrant along the stream bank (East Greenville, PA Quadrangle N: 5.7 inches; W: 3.1 inches) in Upper Hanover Township, **Montgomery County**.

**D62-033. Game Commission**, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797. To modify, operate and main-

tain, the Akeley Swamp Dam across a tributary to Conewango Creek (CWF), directly impacting a de minimis area of wetland (PEM) equal to 0.03 acre and indirectly impacting approximately 231.0 acres of wetland (PEM, PSS) by seasonal and annual flooding. The project will involve modifying the three outlet structures to regulate the water levels in Akeley Swamp (Russell, PA Quadrangle N: 20.2 inches; W: 1.8 inches) in Pine Grove Township, **Warren County**.

### SPECIAL NOTICES

#### Planning Grant Awards under section 901 of the Municipal Waste Planning Recycling and Waste Reduction Act of 1988, Act 101

The Department of Environmental Protection (Department) announces the following grants to counties under the Pennsylvania Municipal Waste Planning, Recycling and Waste Reduction Act of 1988, Act 101, P. L. 556, section 901 and section 208 of the Waste Tire Recycling Act/Small Business and Household Pollution Prevention Act (Act 190).

Planning grants are awarded to counties for 80% of approved costs for preparing municipal waste management plans as required by Act 101, for carrying out related studies, surveys, investigations, inquiries, research and analysis, including those related to siting, environmental mediation, education programs on pollution prevention and household hazardous waste and providing technical assistance to small businesses for pollution prevention. Grants may be awarded for feasibility studies and project development for municipal waste processing or disposal facilities, except for facilities for the combustion of municipal waste that are not proposed to be operated for the recovery of energy. Grant awards are predicated on the receipt of recycling fees required by sections 701 and 702 of Act 101 and the availability of moneys in the Recycling Fund.

Inquiries regarding the grant offerings should be directed to Sally Lohman, Chief, Waste Planning Section, Department of Environmental Protection, Bureau of Land Recycling and Waste Management, Division of Waste Minimization and Planning, P. O. Box 8472, Harrisburg, PA 17105-8472.

#### Act 101, Section 901 Planning Grant

Region	County	Applicant	Project Description	Grant Award
Southcentral	Huntingdon	Huntingdon County	Household Hazardous Waste Education	\$3,055
Northcentral	Snyder	Snyder County	Household Hazardous Waste Feasibility Study	\$11,521

#### Recycling Grant Awards under the Municipal Waste Planning, Recycling and Waste Reduction Act of 1988, Act 101

The Department announces the following grants for recycling programs under the Pennsylvania Municipal Waste Planning, Recycling and Waste Reduction Act of 1988, Act 101, P. L. 556, sections 301(1) and 706(c)(3).

Grant funds are used to reimburse for-profit business entities and nonprofit organizations to increase organics recycling. For-profit and nonprofit organizations are eligible for up to 90% funding of approved organics recycling program costs. Grant awards are predicated on the receipt of recycling fees required by sections 701 and 702 of Act 101 and the availability of moneys in the Recycling Fund.

Inquiries regarding the grant offerings should be directed to Patti Olenick, Organics Recycling Coordinator,

Department of Environmental Protection, Bureau of Land Recycling and Waste Management, Division of Waste Minimization and Planning, Rachel Carson State Office Building, P. O. Box 8472, Harrisburg, PA 17105-8472.

#### Composting Infrastructure Development Grant

##### Recommendations

#### Applications Submitted on or before February 13, 2004

Applicant	County	Grant Award
1. Wilson College	Franklin	\$36,850
2. Two Particular Acres	Montgomery	\$75,000
3. Shenk's Berry Farm	Lancaster	\$19,640
4. Four Spring's Farm	Lehigh	\$54,396

**Public Hearing for NPDES Permit No.  
PAG2005403032-1**

The Department will hold a public hearing to accept comments on general NPDES Permit Application No. PAG2005403032-1 for the discharge of stormwater from construction activities at the proposed Eagle Rock Resort in Black Creek and Hazle Townships, Luzerne County and East Union and North Union Townships, Schuylkill County.

The public hearing will be held on July 21, 2004, at 7 p.m. in the West Hazleton Elementary and Middle School, 325 North Street, Hazle Township, Luzerne County by the Department of Environmental Protection, Water Management Program, Soils and Waterways Section, 2 Public Square, Wilkes-Barre, PA 18711-0790, (570) 826-2554. The hearing is in response to an application submitted by Eagle Rock Resort, a Double Diamond Companies, Inc. The NPDES permit application proposes the discharge of stormwater from construction activities to Sugarloaf and Tomhicken Creeks.

The Department requests that individuals wishing to testify at the hearing submit a written notice of intent to Eagle Rock Resort Public Hearing, Department of Environmental Protection, Water Management Program, 2 Public Square, Wilkes-Barre, PA 18711. The Department will accept notices up to the day of the hearing. The Department requests that individuals limit their testimony to 10 minutes so that all individuals have the opportunity to testify. The Department can only review comments made with regard to the NPDES Permit Application No. PAG2005403032-1. Written copies of oral testimony are requested. Relinquishing time to others will not be allowed. Individuals attending the hearing will have the opportunity to testify if they so desire. However, individuals who preregister to testify will be given priority on the agenda.

Persons with a disability who wish to testify and require an auxiliary aid, service or other accommodation should contact Christine Domashinski at (570) 826-2511 or through the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD) to discuss how the Department can meet their needs.

The NPDES permit application is available for review at the Schuylkill County Conservation District, (570) 622-3742 and the Luzerne County Conservation District, (570) 674-7991.

For further information, contact Mark Carmon, Northeast Regional Office, (570) 826-2511.

[Pa.B. Doc. No. 04-1075. Filed for public inspection June 18, 2004, 9:00 a.m.]

### Availability of Technical Guidance

Technical guidance documents are on the Department of Environmental Protection's (Department) website: [www.dep.state.pa.us](http://www.dep.state.pa.us) (DEP Keyword: participate). The "Current Inventory" heading is the Governor's list of nonregulatory guidance documents. The "Final Documents" heading is the link to a menu of the various Department bureaus and from there to each bureau's final technical guidance documents. The "Draft Technical Guidance" heading is the link to the Department's draft technical guidance documents.

The Department will continue to revise its nonregulatory documents, as necessary, throughout 2004.

### Ordering Paper Copies of Department Technical Guidance

The Department encourages the use of the Internet to view guidance documents. When this option is not available, persons can order a bound paper copy of the latest inventory or an unbound paper copy of any of the final documents listed on the inventory by calling the Department at (717) 783-8727.

In addition, bound copies of some of the Department's documents are available as Department publications. Check with the appropriate bureau for more information about the availability of a particular document as a publication.

### Changes to Technical Guidance Documents

Following is the current list of recent changes. Persons who have questions or comments about a particular document should call the contact person whose name and phone number is listed with each document.

### Final Technical Guidance

DEP ID: 580-2200-010. Title: Underground Storage of Explosives. Description: Section 702 of the Pennsylvania Bituminous Coal Mine Act (52 P.S. § 701-702) and section 1402 of the Pennsylvania Anthracite Coal Mine Act (52 P.S. § 70-1402) (collectively, "acts") allow mine operators to adopt or use a new technology or method if that method or technology provides equivalent protection to personnel and property as those statutory requirements contained in the acts. During the 40 years since these acts were promulgated, explosives used in underground coal mines have become significantly more stable and harder to accidentally detonate. As a result, the Department has determined that the storage of explosives in anthracite and bituminous underground mines can occur for extended periods if Department guidance is followed to store these explosives. Final Technical Guidance Document # 580-2200-010 provides guidance for mine operators to store explosives in underground mines which, if followed, will afford personnel and property with the same or greater level of protection as intended under the acts. Notice soliciting public comment on the draft of this document was advertised at 34 Pa.B. 2019 (April 10, 2004) with provision for a 30-day public comment period. The Department did not receive any comments from the public on the draft guidance document. Effective Date: June 19, 2004.

KATHLEEN A. MCGINTY,  
*Secretary*

[Pa.B. Doc. No. 04-1076. Filed for public inspection June 18, 2004, 9:00 a.m.]

### Certification Program Advisory Committee Meeting Cancellation

The Certification Program Advisory Committee has canceled its meeting scheduled for July 29, 2004. The next scheduled meeting is October 6, 2004.

Persons with questions concerning this meeting should call Lynn Rice, (717) 787-5236, [mlrice@state.pa.us](mailto:mlrice@state.pa.us). The agenda and meeting materials for the October 6, 2004, meeting will be available through the Public Participation Center on the Department of Environmental Protection's (Department) website: [www.dep.state.pa.us](http://www.dep.state.pa.us) (DEP Keyword: Participate).

Persons with a disability who require accommodations to attend the October 6, 2004, meeting should contact the

Department at (717) 787-5236 or through the AT&T Relay Services at (800) 654-5984 (TDD) to discuss how the Department can accommodate their needs.

KATHLEEN A. MCGINTY,  
*Secretary*

[Pa.B. Doc. No. 04-1077. Filed for public inspection June 18, 2004, 9:00 a.m.]

### State Board for Certification of Water and Wastewater Systems Operators Meeting Cancellations

The State Board for Certification of Water and Wastewater Systems Operators has canceled two meetings scheduled for June 25, 2004, and July 30, 2004. The next regularly scheduled meeting is October 15, 2004.

Persons who have questions concerning these meetings should contact Lynn Rice, (717) 787-5236, mlrice@state.pa.us. The agenda and meeting materials for the October 15, 2004, meeting will be available through the Public Participation Center on the Department of Environmental Protection's (Department) website: www.dep.state.pa.us (DEP Keyword: Participate).

Persons with a disability who require accommodations to attend the October 15, 2004, meeting should contact the Department at (717) 787-5236 or through the AT&T Relay Services at (800) 654-5984 (TDD) to discuss how the Department may accommodate their needs.

KATHLEEN A. MCGINTY,  
*Secretary*

[Pa.B. Doc. No. 04-1078. Filed for public inspection June 18, 2004, 9:00 a.m.]

## DEPARTMENT OF HEALTH

### Public Hearing and Public Meeting of the Tobacco Use Prevention and Cessation Advisory Committee

The Tobacco Use Prevention and Cessation Advisory Committee (Committee) of the Department of Health will hold a public hearing and a public meeting on June 23, 2004, in Room 812, Health and Welfare Building, Seventh and Forster Streets, Harrisburg, PA.

The public hearing will be held from 10:30 a.m. to 12 p.m. Comments must be submitted in writing by 2:30 p.m. on June 18, 2004, to the Department of Health, Bureau of Chronic Diseases and Injury Prevention, Division of Tobacco Prevention and Control, Room 1006, Health and Welfare Building, Seventh and Forster Streets, Harrisburg, PA 17120, fax (717) 214-6690. Written comments must be limited to no more than three typewritten pages. Persons wishing to present written statements orally at the public hearing must contact Brenda Reichert at (717) 783-6600 by 2:30 p.m. on June 18, 2004, to make a reservation for testifying at the hearing. Oral testimony will be limited to 5 minutes. Persons will be scheduled on a first come, first served basis, as time permits.

The public meeting of the Committee will be held from 1 p.m. to 3:30 p.m. The purpose of the meeting is to discuss the tobacco use prevention and cessation priorities for State fiscal year 2003-04.

This meeting is open to the public. No reservations are required to attend the public meeting.

For additional information or persons with a disability who wish to attend the meeting and require an auxiliary aid, service or other accommodation to do so, contact Judy Ochs, Director, (717) 783-6600, for speech and/or hearing impaired persons, V/TT (717) 783-6514 or the Pennsylvania AT&T Relay Services at (800) 654-5984.

This hearing and meeting is subject to cancellation without notice.

CALVIN B. JOHNSON, M.D., M.P.H.,  
*Secretary*

[Pa.B. Doc. No. 04-1079. Filed for public inspection June 18, 2004, 9:00 a.m.]

### Special Supplemental Nutrition Program for Women, Infants and Children (WIC Program) Maximum Allowable Prices

Under 28 Pa. Code § 1103.4(5) (relating to selection criteria for authorization and reauthorization), the WIC Program publishes notice of the maximum allowable prices. Effective July 1, 2004, through September 30, 2004, the maximum allowable prices the Department of Health will pay for a WIC allowable food are as follows:

<i>Description</i>	<i>Maximum Allowable Price</i>
1/2 gal. of Milk: Whole, Reduced Fat, Low Fat or Skim	\$2.54
12 oz. Evaporated Milk	\$1.13
16 oz. Dry Milk	\$5.22
1 qt. Lactose Reduced Milk	\$2.34
1/2 gal. Kosher Milk	\$3.30
4 oz. Kosher Infant Juice	\$0.69
8 oz. Kosher Infant Cereal	\$1.92
1 doz. Grade A Eggs	\$1.78
1 lb. Fresh Carrots	\$0.98
14 to 16 oz. Canned Carrots	\$0.98
1 lb. Cheese	\$6.12
1 lb. Kosher Cheese	\$8.32
1 lb. Dry Beans or Peas	\$1.28
1 oz. Adult WIC Cereal	\$0.37
8 oz. Gerber Infant Cereal	\$1.92
15 to 18 oz. Peanut Butter	\$2.43
46 oz. Single Strength Juice or 11.5 or 12 oz. Juice Concentrate	\$2.41
6 oz. Cans Juice	\$1.56
6 to 6.5 oz. Chunk Light Tuna Packed in Water	\$0.95
4 oz. Gerber Infant Juice	\$0.69
32 oz. Alimentum Advance Ready-to-Feed	\$9.32
16 oz. Alimentum Advance Powder	\$26.82
13 oz. Isomil with Iron Concentrate	\$4.36
12.9 oz. Isomil with Iron Powder	\$13.29
13 oz. Isomil Advance Concentrate	\$4.70
32 oz. Isomil Advance Ready-to-Feed	\$5.80
12.9 oz. Isomil Advance Powder	\$14.42
12.9 oz. Isomil 2 Advance Powder	\$14.42
32 oz. Isomil DF Ready-to-Feed	\$6.07
13 oz. Nutramigen Lipil Concentrate	\$7.04
32 oz. Nutramigen Lipil Powder	\$24.42
32 oz. Nutramigen Lipil Ready-to-Feed	\$8.87
8 oz. Pediasure Ready-to-Feed	\$2.24
8 oz. Pediasure with Fiber Ready-to-Feed	\$2.34

<i>Description</i>	<i>Maximum Allowable Price</i>
13 oz. Similac Advance Concentrate	\$4.38
32 oz. Similac Advance Ready-to-Feed	\$6.20
12.9 oz. Similac Advance Powder	\$13.66
13 oz. Similac Lactose Free Advance Concentrate	\$4.81
32 oz. Similac Lactose Free Advance Ready-to-Feed	\$5.92
12.9 oz. Similac Lactose Free Advance Powder	\$14.74
12.8 oz. Similac Neosure Advance Powder	\$15.65
13 oz. Similac with Iron Concentrate	\$4.07
32 oz. Similac with Iron Ready-to-Feed	\$5.39
12.9 oz. Similac with Iron Powder	\$12.95
12.9 oz. Similac 2 Advance Powder	\$13.66

A store must permit purchase of WIC allowable foods that exceed the maximum allowable price to WIC participants using a WIC check. However, the amounts that exceed the maximum allowable price of any WIC allowable foods sold to WIC participants will be billed to the store on a quarterly basis in accordance with 28 Pa. Code § 1105.2 (relating to price adjustment).

Persons with a disability who require an alternative format of this listing of maximum allowable prices (for example, large print, audiotope or Braille) should contact Chris Harr, Department of Health, Division of WIC, Room 604, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-1289, for speech and/or hearing impaired persons, V/TT (717) 783-6514 or the Pennsylvania AT&T Relay Services at (800) 654-5984.

CALVIN B. JOHNSON, M.D., M.P.H.,  
*Secretary*

[Pa.B. Doc. No. 04-1080. Filed for public inspection June 18, 2004, 9:00 a.m.]

### Technical Advisory on Enrollee Consent for Provider-Initiated Grievances

Under 28 Pa. Code § 9.603 (relating to technical advisories), the Department of Health (Department), Bureau of Managed Care, is issuing a technical advisory on enrollee consent for provider-initiated grievances under Article XXI of The Insurance Company Law of 1921 (40 P. S. §§ 991.2101—991.2193).

The Department is aware plans and providers often disagree regarding what constitutes a valid enrollee consent allowing a provider to initiate a grievance on behalf of the enrollee. Similar issues surfaced during the Department's promulgation of 28 Pa. Code Chapter 9 (relating to managed care organizations). Because of these disputes, the Department included in 28 Pa. Code § 9.706(e) (relating to health care provider initiated grievances) the minimum elements that a consent form should have to be compliant with the regulations. Despite 28 Pa. Code § 9.706, plans and providers continue to dispute the size, shape, color and language included in these forms, and these arguments over form are jeopardizing the enrollee's right to have a provider bring a grievance with the enrollee's consent. The Department, therefore, is issuing a sample consent form, which, if a provider and enrollee voluntarily follow this format, will be deemed by the Department to be compliant with 28 Pa. Code § 9.706, and constitute valid enrollee consent for the purpose of a provider grievance.

The Department is also issuing an advisory regarding the proper interpretation of 28 Pa. Code § 9.706(b) and (e)(5) regarding health care provider integrity grievances. Some plans have viewed these two sections as contradictory in a hospital setting, since the first allows a provider to obtain enrollee consent at the time of treatment and the second states that the consent form must include the specific service for which coverage was provided or denied. With respect to the policy behind 28 Pa. Code § 9.706(b), the Department stated in the preamble to the final-form rulemaking published at 31 Pa.B. 3043 (June 9, 2001):

The Department is willing to permit a health care provider to use an enrollee consent obtained prior to service, so long as that consent is not obtained as a condition precedent to the enrollee's receiving the service. The Department is aware that some providers serve populations who may be difficult to locate after the service has been rendered. The Department is also aware that some enrollees, not being held financially responsible for the service in any case, may have no motivation to support the provider's pursuit of a grievance. If the provider does not obtain consent at the time of the service, the provider may have difficulties in obtaining consents at a later date.

This remains the Department's position. Therefore, in a hospital admission setting, the Department will deem compliant with 28 Pa. Code § 9.706(b) and (e)(5) a statement in the enrollee consent form that the specific services for which the enrollee is providing consent are related to the hospital admission and the dates of that admission. The consent would then be valid for all services provided during that admission.

Persons with a disability who require an alternative format of this notice or the consent form (for example, large print, audiotope or Braille) or who have other questions regarding this notice should contact Stacy Mitchell, Director, Bureau of Managed Care, Department of Health, P. O. Box 90, Harrisburg, PA 17108-0090, (717) 787-5193, for speech and/or hearing impaired persons V/TT: (717) 783-6154 or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TT).

CALVIN B. JOHNSON, M.D., M.P.H.,  
*Secretary*

[Pa.B. Doc. No. 04-1081. Filed for public inspection June 18, 2004, 9:00 a.m.]

## DEPARTMENT OF REVENUE

### Pennsylvania Green and Gold Instant Lottery Game

Under the State Lottery Law (72 P. S. §§ 3761-101—3761-314) and 61 Pa. Code § 819.203 (relating to notice of instant game rules), the Secretary of Revenue hereby provides public notice of the rules for the following instant lottery game:

1. *Name:* The name of the game is Pennsylvania Green and Gold.
2. *Price:* The price of a Pennsylvania Green and Gold instant lottery game ticket is \$5.
3. *Play Symbols:* Each Pennsylvania Green and Gold instant lottery game ticket will contain one play area

featuring a "Winning Numbers" area and a "Your Numbers" area. The play symbols and their captions located in the "Winning Numbers" area are: 1 (ONE), 2 (TWO), 3 (THREE), 4 (FOUR), 5 (FIVE), 6 (SIX), 7 (SEVEN), 8 (EIGHT), 9 (NINE), 10 (TEN), 11 (ELEVN), 12 (TWLV), 13 (THRTN), 14 (FORTN), 15 (FIFTEN), 16 (SIXTN), 17 (SVNTN), 18 (EGHTN), 19 (NINTN), 20 (TWENT), 21 (TWYONE), 22 (TWYTWO), 23 (TWYTHR) and 24 (TWYFOR). The play symbols and their captions located in the "Your Numbers" area are: 1 (ONE), 2 (TWO), 3 (THREE), 4 (FOUR), 5 (FIVE), 6 (SIX), 7 (SEVEN), 8 (EIGHT), 9 (NINE), 10 (TEN), 11 (ELEVN), 12 (TWLV), 13 (THRTN), 14 (FORTN), 15 (FIFTEN), 16 (SIXTN), 17 (SVNTN), 18 (EGHTN), 19 (NINTN), 20 (TWENT), 21 (TWYONE), 22 (TWYTWO), 23 (TWYTHR), 24 (TWYFOR) and Money Bag Symbol (MNYBG).

4. *Prize Play Symbols:* The prize play symbols and their captions located in the "Your Numbers" area are: \$2.<sup>00</sup> (TWO DOL), \$5.<sup>00</sup> (FIV DOL), \$6.<sup>00</sup> (SIX DOL), \$10.<sup>00</sup> (TEN DOL), \$15\$ (FIFTN), \$25\$ (TWY FIV), \$50\$ (FIFTY), \$100 (ONE HUN), \$250 (TWOHUNFTY), \$2,500 (TWYFIVHUN) and \$75,000 (SVYFIVTHO).

5. *Prizes:* The prizes that can be won in this game are \$2, \$5, \$6, \$10, \$15, \$25, \$50, \$100, \$250, \$2,500 and \$75,000. A player can win up to 10 times on a ticket.

6. *Approximate Number of Tickets Printed for the Game:* Approximately 6,000,000 tickets will be printed for the Pennsylvania Green and Gold instant lottery game.

#### 7. *Determination of Prize Winners:*

(a) Holders of tickets upon which any one of the "Your Numbers" play symbols matches any of the "Winning Numbers" play symbols and a prize play symbol of \$75,000 (SVYFIVTHO) appears under the matching "Your Numbers" play symbol, on a single ticket, shall be entitled to a prize of \$75,000.

(b) Holders of tickets upon which any one of the "Your Numbers" play symbols matches any of the "Winning Numbers" play symbols and a prize play symbol of \$2,500 (TWYFIVHUN) appears under the matching "Your Numbers" play symbol, on a single ticket, shall be entitled to a prize of \$2,500.

(c) Holders of tickets upon which any one of the "Your Numbers" play symbols is a Money Bag Symbol (MNYBG), and a prize play symbol of \$250 (TWOHUNFTY) appears under the Money Bag Symbol (MNYBG) on a single ticket, shall be entitled to a prize of \$250.

(d) Holders of tickets upon which any one of the "Your Numbers" play symbols matches any of the "Winning Numbers" play symbols and a prize play symbol of \$250 (TWOHUNFTY) appears under the matching "Your Numbers" play symbol, on a single ticket, shall be entitled to a prize of \$250.

(e) Holders of tickets upon which any one of the "Your Numbers" play symbols is a Money Bag Symbol (MNYBG), and a prize play symbol of \$100 (ONE HUN) appears under the Money Bag Symbol (MNYBG) on a single ticket, shall be entitled to a prize of \$100.

(f) Holders of tickets upon which any one of the "Your Numbers" play symbols matches any of the "Winning Numbers" play symbols and a prize play symbol of \$100 (ONE HUN) appears under the matching "Your Numbers" play symbol, on a single ticket, shall be entitled to a prize of \$100.

(g) Holders of tickets upon which any one of the "Your Numbers" play symbols is a Money Bag Symbol (MNYBG), and a prize play symbol of \$50\$ (FIFTY) appears under the Money Bag Symbol (MNYBG) on a single ticket, shall be entitled to a prize of \$50.

(h) Holders of tickets upon which any one of the "Your Numbers" play symbols matches any of the "Winning Numbers" play symbols and a prize play symbol of \$50\$ (FIFTY) appears under the matching "Your Numbers" play symbol, on a single ticket, shall be entitled to a prize of \$50.

(i) Holders of tickets upon which any one of the "Your Numbers" play symbols is a Money Bag Symbol (MNYBG), and a prize play symbol of \$25\$ (TWY FIV) appears under the Money Bag Symbol (MNYBG) on a single ticket, shall be entitled to a prize of \$25.

(j) Holders of tickets upon which any one of the "Your Numbers" play symbols matches any of the "Winning Numbers" play symbols and a prize play symbol of \$25\$ (TWY FIV) appears under the matching "Your Numbers" play symbol, on a single ticket, shall be entitled to a prize of \$25.

(k) Holders of tickets upon which any one of the "Your Numbers" play symbols is a Money Bag Symbol (MNYBG), and a prize play symbol of \$15\$ (FIFTN) appears under the Money Bag Symbol (MNYBG) on a single ticket, shall be entitled to a prize of \$15.

(l) Holders of tickets upon which any one of the "Your Numbers" play symbols matches any of the "Winning Numbers" play symbols and a prize play symbol of \$15\$ (FIFTN) appears under the matching "Your Numbers" play symbol, on a single ticket, shall be entitled to a prize of \$15.

(m) Holders of tickets upon which any one of the "Your Numbers" play symbols is a Money Bag Symbol (MNYBG), and a prize play symbol of \$10.<sup>00</sup> (TEN DOL) appears under the Money Bag Symbol (MNYBG) on a single ticket, shall be entitled to a prize of \$10.

(n) Holders of tickets upon which any one of the "Your Numbers" play symbols matches any of the "Winning Numbers" play symbols and a prize play symbol of \$10.<sup>00</sup> (TEN DOL) appears under the matching "Your Numbers" play symbol, on a single ticket, shall be entitled to a prize of \$10.

(o) Holders of tickets upon which any one of the "Your Numbers" play symbols is a Money Bag Symbol (MNYBG), and a prize play symbol of \$6.<sup>00</sup> (SIX DOL) appears under the Money Bag Symbol (MNYBG) on a single ticket, shall be entitled to a prize of \$6.

(p) Holders of tickets upon which any one of the "Your Numbers" play symbols matches any of the "Winning Numbers" play symbols and a prize play symbol of \$6.<sup>00</sup> (SIX DOL) appears under the matching "Your Numbers" play symbol, on a single ticket, shall be entitled to a prize of \$6.

(q) Holders of tickets upon which any one of the "Your Numbers" play symbols is a Money Bag Symbol (MNYBG), and a prize play symbol of \$5.<sup>00</sup> (FIV DOL) appears under the Money Bag Symbol (MNYBG) on a single ticket, shall be entitled to a prize of \$5.

(r) Holders of tickets upon which any one of the "Your Numbers" play symbols matches any of the "Winning Numbers" play symbols and a prize play symbol of \$5.<sup>00</sup> (FIV DOL) appears under the matching "Your Numbers" play symbol, on a single ticket, shall be entitled to a prize of \$5.

(s) Holders of tickets upon which any one of the "Your Numbers" play symbols matches any of the "Winning Numbers" play symbols and a prize play symbol of \$2<sup>00</sup> (TWO DOL) appears under the matching "Your Numbers" play symbol, on a single ticket, shall be entitled to a prize of \$2.

*When Any of Your Numbers Match Any of the Winning Numbers, Win With Prize(s) of:*

<i>Win:</i>	<i>Approximate Odds of 1 In:</i>	<i>Approximate No. of Winners Per 6,000,000 Tickets</i>
\$5	30	200,000
\$5 w/Moneybag	11.76	510,000
\$6	60	100,000
\$6 w/Moneybag	60	100,000
\$2 × 5	120	50,000
\$5 × 2	600	10,000
\$10	600	10,000
\$10 w/Moneybag	46.15	130,000
\$5 × 3	600	10,000
\$10 + \$5	600	10,000
\$15	600	10,000
\$15 w/Moneybag	300	20,000
\$5 × 5	75	80,000
\$25	200	30,000
\$25 w/Moneybag	66.67	90,000
\$25 × 2	300	20,000
\$15 × 3 + \$5	600	10,000
\$5 × 10	300	20,000
\$10 × 5	300	20,000
\$50	300	20,000
\$50 w/Moneybag	600	10,000
\$10 × 10	960	6,250
\$50 × 2	960	6,250
\$100	960	6,250
\$100 w/Moneybag	960	6,250
\$25 × 10	30,000	200
\$50 × 5	30,000	200
\$250	30,000	200
\$250 w/Moneybag	30,000	200
\$250 × 10	600,000	10
\$2,500	600,000	10
\$75,000	600,000	10

Moneybag = Win prize shown automatically

9. *Retailer Incentive Awards:* The Lottery may conduct a separate Retailer Incentive Game for retailers who sell Pennsylvania Green and Gold instant lottery game tickets. The conduct of the game will be governed by 61 Pa. Code § 819.222 (relating to retailer bonuses and incentives).

10. *Unclaimed Prize Money:* For a period of 1 year from the announced close of Pennsylvania Green and Gold, prize money from winning Pennsylvania Green and Gold instant lottery game tickets will be retained by the Secretary for payment to the persons entitled thereto. If no claim is made within 1 year of the announced close of the Pennsylvania Green and Gold instant lottery game, the right of a ticket holder to claim the prize represented by the ticket, if any, will expire and the prize money will be paid into the State Lottery Fund and used for purposes provided for by statute.

11. *Governing Law:* In purchasing a ticket, the customer agrees to comply with and abide by the State Lottery Law (72 P. S. §§ 3761-101—3761-314), 61

8. *Number and Description of Prizes and Approximate Odds:* The following table sets forth the approximate number of winners, amounts of prizes and approximate odds of winning:

Pa. Code Part V (relating to State Lotteries) and the provisions contained in this notice.

12. *Termination of the Game:* The Secretary may announce a termination date, after which no further tickets from this game may be sold. The announcement will be disseminated through media used to advertise or promote Pennsylvania Green and Gold or through normal communications methods.

GREGORY C. FAJT,  
Secretary

[Pa.B. Doc. No. 04-1082. Filed for public inspection June 18, 2004, 9:00 a.m.]

## Pennsylvania 24 Karat Cash Instant Lottery Game

Under the State Lottery Law (72 P. S. §§ 3761-101—3761-314) and 61 Pa. Code § 819.203 (relating to notice of

instant game rules), the Secretary of Revenue hereby provides public notice of the rules for the following instant lottery game:

1. *Name:* The name of the game is Pennsylvania 24 Karat Cash.

2. *Price:* The price of a Pennsylvania 24 Karat Cash instant lottery game ticket is \$2.

3. *Play Symbols:* Each Pennsylvania 24 Karat Cash instant lottery game ticket will contain one play area featuring one "Winning Numbers" area, one "Your Numbers" area and a "Winner Take All Bonus" area. The play symbols and their captions located in the "Winning Numbers" area and the "Your Numbers" area are: 1 (ONE), 2 (TWO), 3 (THREE), 4 (FOUR), 5 (FIVE), 6 (SIX), 7 (SEVEN), 8 (EIGHT), 9 (NINE), 10 (TEN), 11 (ELEVN), 12 (TWLV), 13 (THRTN), 14 (FORTN), 15 (FIFTEN) and 16 (SIXTN). The play symbols and their captions located in the "Winner Take All Bonus" area are: Money Symbol (MONEY), Necklace Symbol (NKLACE), Gold Bar Symbol (GOLD), Coins Symbol (COINS), Emerald Symbol (EMRLD) and Ring Symbol (RING).

4. *Prize Play Symbols:* The prize play symbols and their captions located in the "Your Numbers" area are: \$1<sup>00</sup> (ONE DOL), \$2<sup>00</sup> (TWO DOL), \$3<sup>00</sup> (THR DOL), \$4<sup>00</sup> (FOR DOL), \$8<sup>00</sup> (EGT DOL), \$12\$ (TWELV), \$16\$ (SIXTN), \$24\$ (TWY FOR), \$48\$ (FRYEGT), \$96\$ (NTY SIX), \$240 (TWOHUNFRY), \$2,400 (TWYFORHUN) and \$24,000 (TWYFORTHO).

5. *Prizes:* The prizes that can be won in this game are \$1, \$2, \$3, \$4, \$8, \$12, \$16, \$24, \$48, \$96, \$240, \$2,400 and \$24,000. The player can win up to eight times on a ticket.

6. *Approximate Number of Tickets Printed for the Game:* Approximately 7,200,000 tickets will be printed for the Pennsylvania 24 Karat Cash instant lottery game.

7. *Determination of Prize Winners:*

(a) Holders of tickets upon which any one of the "Your Numbers" play symbols matches either of the "Winning Numbers" play symbols and a prize play symbol of \$24,000 (TWYFORTHO) appears under the matching "Your Numbers" play symbol, on a single ticket, shall be entitled to a prize of \$24,000.

(b) Holders of tickets upon which any one of the "Your Numbers" play symbols matches either of the "Winning Numbers" play symbols and a prize play symbol of \$2,400 (TWYFORHUN) appears under the matching "Your Numbers" play symbol, on a single ticket, shall be entitled to a prize of \$2,400.

(c) Holders of tickets upon which any one of the "Your Numbers" play symbols matches either of the "Winning Numbers" play symbols and a prize play symbol of \$240 (TWOHUNFRY) appears under the matching "Your Numbers" play symbol, on a single ticket, shall be entitled to a prize of \$240.

(d) Holders of tickets with a Ring Symbol (RING) in the "Winner Take All Bonus" area, four prize play symbols of \$12\$ (TWELV) and four prize play symbols of \$48\$ (FRYEGT) in the "Your Numbers" area, on a single ticket, shall be entitled to a prize of \$240.

(e) Holders of tickets upon which any one of the "Your Numbers" play symbols matches either of the "Winning Numbers" play symbols and a prize play symbol of \$96\$

(NTY SIX) appears under the matching "Your Numbers" play symbol, on a single ticket, shall be entitled to a prize of \$96.

(f) Holders of tickets with a Ring Symbol (RING) in the "Winner Take All Bonus" area, eight prize play symbols of \$12\$ (TWELV) in the "Your Numbers" area, on a single ticket, shall be entitled to a prize of \$96.

(g) Holders of tickets upon which any one of the "Your Numbers" play symbols matches either of the "Winning Numbers" play symbols and a prize play symbol of \$48\$ (FRYEGT) appears under the matching "Your Numbers" play symbol, on a single ticket, shall be entitled to a prize of \$48.

(h) Holders of tickets with a Ring Symbol (RING) in the "Winner Take All Bonus" area, four prize play symbols of \$4<sup>00</sup> (FOR DOL) and four prize play symbols of \$8<sup>00</sup> (EGT DOL) in the "Your Numbers" area, on a single ticket, shall be entitled to a prize of \$48.

(i) Holders of tickets upon which any one of the "Your Numbers" play symbols matches either of the "Winning Numbers" play symbols and a prize play symbol of \$24\$ (TWY FOR) appears under the matching "Your Numbers" play symbol, on a single ticket, shall be entitled to a prize of \$24.

(j) Holders of tickets with a Ring Symbol (RING) in the "Winner Take All Bonus" area, eight prize play symbols of \$3<sup>00</sup> (THR DOL) in the "Your Numbers" area, on a single ticket, shall be entitled to a prize of \$24.

(k) Holders of tickets upon which any one of the "Your Numbers" play symbols matches either of the "Winning Numbers" play symbols and a prize play symbol of \$16\$ (SIXTN) appears under the matching "Your Numbers" play symbol, on a single ticket, shall be entitled to a prize of \$16.

(l) Holders of tickets with a Ring Symbol (RING) in the "Winner Take All Bonus" area, eight prize play symbols of \$2<sup>00</sup> (TWO DOL) in the "Your Numbers" area, on a single ticket, shall be entitled to a prize of \$16.

(m) Holders of tickets upon which any one of the "Your Numbers" play symbols matches either of the "Winning Numbers" play symbols and a prize play symbol of \$12\$ (TWELV) appears under the matching "Your Numbers" play symbol, on a single ticket, shall be entitled to a prize of \$12.

(n) Holders of tickets with a Ring Symbol (RING) in the "Winner Take All Bonus" area, four prize play symbols of \$2<sup>00</sup> (TWO DOL) and four prize play symbols of \$1<sup>00</sup> (ONE DOL) in the "Your Numbers" area, on a single ticket, shall be entitled to a prize of \$12.

(o) Holders of tickets upon which any one of the "Your Numbers" play symbols matches either of the "Winning Numbers" play symbols and a prize play symbol of \$8<sup>00</sup> (EGT DOL) appears under the matching "Your Numbers" play symbol, on a single ticket, shall be entitled to a prize of \$8.

(p) Holders of tickets with a Ring Symbol (RING) in the "Winner Take All Bonus" area, eight prize play symbols of \$1<sup>00</sup> (ONE DOL) in the "Your Numbers" area, on a single ticket, shall be entitled to a prize of \$8.

(q) Holders of tickets upon which any one of the "Your Numbers" play symbols matches either of the "Winning Numbers" play symbols and a prize play symbol of \$4<sup>00</sup> (FOR DOL) appears under the matching "Your Numbers" play symbol, on a single ticket, shall be entitled to a prize of \$4.



(r) Holders of tickets upon which any one of the "Your Numbers" play symbols matches either of the "Winning Numbers" play symbols and a prize play symbol of \$3<sup>.00</sup> (THR DOL) appears under the matching "Your Numbers" play symbol, on a single ticket, shall be entitled to a prize of \$3.

(s) Holders of tickets upon which any one of the "Your Numbers" play symbols matches either of the "Winning Numbers" play symbols and a prize play symbol of \$2<sup>.00</sup> (TWO DOL) appears under the matching "Your Numbers" play symbol, on a single ticket, shall be entitled to a prize of \$2.

(t) Holders of tickets upon which any one of the "Your Numbers" play symbols matches either of the "Winning Numbers" play symbols and a prize play symbol of \$1<sup>.00</sup> (ONE DOL) appears under the matching "Your Numbers" play symbol, on a single ticket, shall be entitled to a prize of \$1.

8. *Number and Description of Prizes and Approximate Odds:* The following table sets forth the approximate number of winners, amounts of prizes and approximate odds of winning:

*When Any of Your  
Numbers Match  
Either Winning Number,  
Win with Prize(s) of:*

	<i>Win:</i>	<i>Approximate Odds of 1 In:</i>	<i>Approximate No. of Winners Per 7,200,000 Tickets</i>
\$1 × 2	\$2	18.75	384,000
\$2	\$2	21.43	336,000
\$1 × 3	\$3	37.50	192,000
\$2 + \$1	\$3	50	144,000
\$3	\$3	50	144,000
\$1 × 4	\$4	107.14	67,200
\$3 + \$1	\$4	107.14	67,200
\$4	\$4	125	57,600
\$1 × 8	\$8	100	72,000
\$1 × 8 w/Ring	\$8	300	24,000
\$4 × 2	\$8	300	24,000
\$8	\$8	300	24,000
\$2 × 6	\$12	750	9,600
\$3 × 4	\$12	750	9,600
\$4 × 3	\$12	750	9,600
\$2 × 4 + \$1 × 4 w/Ring	\$12	750	9,600
\$12	\$12	750	9,600
\$2 × 8	\$16	750	9,600
\$2 × 8 w/Ring	\$16	375	19,200
\$4 × 4	\$16	750	9,600
\$16	\$16	750	9,600
\$3 × 8	\$24	1,500	4,800
\$4 × 6	\$24	1,500	4,800
\$8 × 3	\$24	1,500	4,800
\$3 × 8 w/Ring	\$24	250	28,800
\$24	\$24	136.36	52,800
\$8 × 6	\$48	3,000	2,400
\$12 × 4	\$48	3,000	2,400
\$4 × 4 + \$8 × 4 w/Ring	\$48	3,000	2,400
\$48	\$48	3,000	2,400
\$12 × 8 w/Ring	\$96	120,000	60
\$96	\$96	120,000	60
\$12 × 4 + \$48 × 4 w/Ring	\$240	360,000	20
\$240	\$240	360,000	20
\$2,400	\$2,400	360,000	20
\$24,000	\$24,000	720,000	10

Ring = Get Ring in Bonus box wins all 8 prizes automatically

9. *Retailer Incentive Awards:* The Lottery may conduct a separate Retailer Incentive Game for retailers who sell Pennsylvania 24 Karat Cash instant lottery game tickets. The conduct of the game will be governed by 61 Pa. Code § 819.222 (relating to retailer bonuses and incentives).

10. *Unclaimed Prize Money:* For a period of 1 year from the announced close of Pennsylvania 24 Karat Cash, prize money from winning Pennsylvania 24 Karat Cash instant lottery game tickets will be retained by the Secretary for payment to the persons entitled thereto. If no claim is made within 1 year of the announced close of the Pennsylvania 24 Karat Cash instant lottery game, the

right of a ticket holder to claim the prize represented by the ticket, if any, will expire and the prize money will be paid into the State Lottery Fund and used for purposes provided for by statute.

11. *Governing Law:* In purchasing a ticket, the customer agrees to comply with and abide by the State Lottery Law (72 P. S. §§ 3761-101—3761-314), 61 Pa. Code Part V (relating to State Lotteries) and the provisions contained in this notice.

12. *Termination of the Game:* The Secretary may announce a termination date, after which no further tickets from this game may be sold. The announcement will be

disseminated through media used to advertise or promote Pennsylvania 24 Karat Cash or through normal communications methods.

GREGORY C. FAJT,  
*Secretary*

[Pa.B. Doc. No. 04-1083. Filed for public inspection June 18, 2004, 9:00 a.m.]

## HEALTH CARE COST CONTAINMENT COUNCIL

### Comparative Hospital Complications Methodology Project; Request for Applications 2004-01

The Health Care Cost Containment Council (Council), an independent State government agency, is accepting grant applications regarding developing and demonstrating severity adjustment methods for measuring and pub-

licly reporting complication rates for inpatient admissions to hospitals in this Commonwealth. The Council will accept and evaluate applications for two types of projects: development of new methodologies to measure complication rates; and demonstration of existing methodologies.

This project is designed to identify candidate methodologies that the Council might employ to supplement its existing Hospital Performance Reports, copies of which can be found on the Council's website: [www.phc4.org](http://www.phc4.org). The Council's current methodology only indirectly assesses the impact of complications on outcomes, and the Council seeks to identify methodologies that can be used to measure complication rates directly. A copy of the Request for Applications (RFA) can be downloaded from the Council's website. Questions regarding this RFA should be addressed to Cherie Elias, Director of Administration, (717) 232-6787, [celias@phc4.org](mailto:celias@phc4.org).

MARC P. VOLAVKA,  
*Executive Director*

[Pa.B. Doc. No. 04-1084. Filed for public inspection June 18, 2004, 9:00 a.m.]

## INDEPENDENT REGULATORY REVIEW COMMISSION

### Notice of Comments Issued

Section 5(g) of the Regulatory Review Act (71 P.S. § 745.5(g)) provides that the Independent Regulatory Review Commission (Commission) may issue comments within 30 days of the close of the public comment period. The Commission comments are based upon the criteria contained in section 5.2 of the Regulatory Review Act (71 P.S. § 745.5b).

The Commission has issued comments on the following proposed regulations. The agency must consider these comments in preparing the final-form regulation. The final-form regulation must be submitted within 2 years of the close of the public comment period or it will be deemed withdrawn.

<i>Reg. No.</i>	<i>Agency/Title</i>	<i>Close of the Public Comment Period</i>	<i>IRRC Comments Issued</i>
16A-4614	State Board of Dentistry Administration of General Anesthesia, Deep Sedation, Conscious Sedation and Nitrous Oxide/Oxygen Analgesia (34 Pa.B. 1949 (April 10, 2004))	5/10/04	6/9/04
16A-4918	State Board of Medicine Disciplinary Process and Procedure (34 Pa.B. 1963 (April 10, 2004))	5/10/04	6/9/04

### State Board of Dentistry Regulation No. 16A-4614 (IRRC No. 2396)

#### Administration of General Anesthesia, Deep Sedation, Conscious Sedation and Nitrous Oxide/Oxygen Analgesia

June 9, 2004

We submit for consideration the following comments that include references to the criteria in the Regulatory Review Act (71 P.S. § 745.5b) which have not been met. The State Board of Dentistry (Board) must respond to these comments when it submits the final-form regulation. The public comment period for this regulation closed on May 10, 2004. If the final-form regulation is not delivered within 2 years of the close of the public comment period, the regulation will be deemed withdrawn.

The act of November 25, 2002 (P. L. 1109, No. 135) (Act 135) amended the Dental Law to provide additional safeguards related to the administration of anesthesia. Included in Act 135 are requirements for office inspections and clinical evaluations prior to the issuance of permits to administer general anesthesia, deep sedation or conscious sedation. These requirements, as well as requirements regarding nitrous oxide/oxygen analgesia equipment, were to take effect on April 1, 2004.

Section 2 of Act 135 mandates the Board to promulgate regulations "within one year of the effective date" of Act 135. Act 135 became effective December 25, 2002. In its May 11, 2004, comments, the House Professional Licensure Committee (Committee) expressed concern that the Board did not comply with the April 1, 2004, statutory deadline. Additionally, the Committee stated "... that, as a consequence, the statutorily imposed deadline concerning these safety measures cannot be implemented as the law directs." We agree with the Committee

that the Board has not met the legislative intent of Act 135 and as a result, the protection of the public health could be endangered. Therefore, we urge the Board to prepare and submit the final-form regulation as soon as possible.

**1. Existing volunteer license regulations.—Conflict with existing regulations.**

Section 33.110(c)(4) addresses the requirements for a volunteer license applicant who wants to administer various types of anesthesia. This section, however, does not refer to “deep sedation.” Additionally, the cross-references to education requirements do not correspond with the section numbers in the proposed regulation and do not include the new requirements for office inspections and clinical evaluations. In the final-form regulation, we suggest the Board amend § 33.110(c)(4) to update the terminology and cross-references and add a cross-reference to the office inspection and clinical evaluation requirements.

**2. Recordkeeping requirements.—Clarity.**

Section 11.2(e) of Act 135 requires permit holders to keep records of a patient’s “physical evaluation, medical history and anesthesia procedures utilized.” The proposed regulation requires the permit holder’s office to retain the results of the medical history and physical evaluation (§§ 33.340(a)(2)(xvii), 33.340a(a)(2)(xvii) and 33.340b(a)(2)(x)). It does not specify how long records must be maintained and in what form. Section 33.209 addresses patient records but does not include deep sedation as a type of anesthesia for which records must be kept.

When the Board submits the final-form regulation, it should revise § 33.209 to include deep sedation. The Board should also insert a cross-reference to § 33.209 in §§ 33.340, 33.340a and 33.340b.

**3. Section 33.331. Definitions.—Need; Clarity.**

*Professional manuals and guidelines*

This section defines “AAOMS Guidelines,” “AAOMS Manual,” “AAPD Guidelines” and “ADA Guidelines.” Included in these definitions are publication dates for each document. In the final-form regulation, we suggest that the Board include language recognizing the successor volumes of each of these documents so that it is not necessary to revise the regulation each time a manual or set of guidelines is updated.

*Communications equipment*

This term is defined as “equipment capable of eliciting a response in an emergency.” It appears that the intent is to allow for two-way communication between personnel performing anesthesia services and emergency personnel or other medical or dental providers. We suggest the Board revise this definition to more specifically identify the type of communication required.

*Physician*

The proposed regulation includes a definition of the term which varies from the definition of “physician” found in The Medical Practice Act (63 P. S. § 422.2). Since the term is already defined in statute, it is unnecessary and potentially confusing to establish a different definition in this regulation. The Board should revise the definition of “physician” to be consistent with the statutory definition or explain why the proposed definition is necessary. If the Board elects to retain the proposed definition, it should clarify the meaning of “currently credentialed.” It should also consider adding a reference to offices and ambulatory surgical facilities to recognize anesthesiologists who practice in these settings.

**4. Section 33.332. Requirement of permit to administer general anesthesia, deep sedation, conscious sedation or nitrous oxide/oxygen analgesia.—Clarity.**

Subsection (b) establishes that a permit is not required to administer anesthetic modalities “in a State- or Federally-regulated facility other than a dental office.” In its comments, the Pennsylvania Society of Anesthesiologists (PSA) notes the Dental Law establishes authority for administering anesthesia for dental procedures only and suggests that subsection (b) be amended by inserting “for dental procedures” after “nitrous oxide/oxygen analgesia.” We agree that the PSA’s recommendation adds clarity and suggest that the Board insert this language in the final-form regulation.

**5. Section 33.336. Requirements for restricted permit I.—Reasonableness.**

The proposed regulation reduces the required number of hours of undergraduate or postgraduate didactic instruction and clinical experience from 80 hours to 60 hours. Explain the basis for reducing the required number of hours.

**6. Section 33.336a. Requirements for unrestricted permit and restricted permit I.—Need; Reasonableness.**

*Subsection (a)*

Paragraph (4) requires a permit applicant to submit an “original letter” from a peer review organization that establishes the applicant’s satisfactory completion of an office inspection and clinical evaluation. Why is the “original letter” required rather than a copy of the letter?

This paragraph also requires “a written report of the results of the office inspection and clinical evaluation.” If the applicant produces a letter demonstrating satisfactory completion of the inspection and evaluation, why is it necessary to also submit the written report? Will the Board use the report for a specific purpose?

*Subsection (b)*

Paragraphs (1) and (2) require applicants to attest that they will perform their duties in conformance with the AAOMS Guidelines and Manual and the ADA and AAPD Guidelines. Since compliance with these guidelines and the manual are required in various sections throughout the proposed regulation, why is a separate attestation necessary? Is the attestation part of the application form?

**7. Section 33.336b. Approved peer evaluation organizations for administering clinical evaluations and office inspections.—Consistency with the statute; Reasonableness; Clarity.**

This section identifies approved peer evaluation organizations and authorizes organizations of oral and maxillofacial surgeons or unrestricted permit holders to apply to be approved peer review organizations. Section 11.2(b)(1) of Act 135 authorizes the Board to contract with “dental schools, organizations or individuals” to perform office inspections and clinical evaluations. However, it does not appear that the Board has exercised the option to contract with other entities or individuals to carry out the mandates of Act 135. We have the following concerns.

*Subsection (a)*

We request the Board explain why it has not pursued the contracting option laid out by Act 135.

Subsection (a) recognizes the Pennsylvania Society of Oral and Maxillofacial Surgeons (PSOMS) and the Ameri-

can Society of Oral and Maxillofacial Surgeons as qualified peer evaluation organizations. Are there other organizations, such as dental schools or associations of other dental specialties, which should be recognized as qualified peer evaluation organizations in subsection (a)?

The PSOMS raises concerns about the evaluation system. The PSOMS comments that the system "will not work within the existing statutory and regulatory structure due to the lack of protection from liability for the dentists who will be acting essentially as volunteers when conducting the required inspections and evaluations." The PSOMS suggests this problem could be solved by the Board contracting with inspectors and evaluators as provided for in Act 135. We agree that without protection from liability, there may be little incentive for dentists to perform inspections and evaluations. How does the Board intend to address this issue?

*Subsection (b)*

*Application to become a peer review organization*

Under this subsection, an organization of oral and maxillofacial surgeons or of unrestricted permit holders may apply to be a peer review organization. Can individual permit holders apply to conduct peer evaluations? If so, the final-form regulation should specify that individuals can apply and set forth the review criteria that would apply to an individual's application.

The Pennsylvania Dental Association (PDA) comments that restricted permit I holders should also be allowed to apply for approval to conduct evaluations and inspections. We agree. Under § 33.336a, all unrestricted permit holders and restricted permit I holders are required to undergo an office inspection and a clinical evaluation every 6 years. It is reasonable to allow restricted permit I holders to conduct evaluations and inspections for other restricted permit I holders. Furthermore, by expanding the scope of who may apply to conduct peer reviews, more inspectors and evaluators may be available to perform this function. We suggest the Board consider including restricted permit I holders in the group of practitioners who can perform peer review for restricted permit I holders.

*Subsection (b)*

*Criteria for review of a peer review organization application*

Subsection (b)(1)–(11) lists criteria the Board will consider in determining whether to grant applications for approval to serve as a peer review organization. We request the Board explain how these criteria were developed. We also request the Board explain how it will determine an applicant's compliance with the criteria in paragraphs (3), (5) and (8) regarding technical competence to administer evaluations and inspections, standards for satisfactory completion of an inspection and procedures to facilitate fair, unbiased and equitable inspections and evaluations. Furthermore, the Board should specify the documentation an applicant must produce to demonstrate compliance with the criteria in paragraphs (3), (5) and (8).

**8. Section 33.336e. Confidentiality of peer evaluation reports.—Clarity.**

Under subsection (b), a peer review organization is required to notify the Board "as to whether the office inspection and clinical evaluation report has been accepted or rejected by the peer evaluation organization." This language is confusing. Based on discussions with Board staff, the intent of this provision is for the peer

review organization to notify the Board that the permit holder has successfully completed the office inspection and clinical evaluation. The Board should amend this provision in the final-form regulation to clearly reflect its intent.

Additionally, we note that the regulation is silent regarding recordkeeping requirements for peer review organizations. The final-form regulation should include the recordkeeping requirements for these organizations.

**9. Section 33.337. Requirements for restricted permit II.—Reasonableness.**

Subsection (a) reduces the course hour requirement for a nitrous oxide/oxygen analgesia course from 40 to 14. Explain the basis for reducing the required number of hours.

**10. Section 33.338. Expiration and renewal of permits.—Reasonableness.**

Subsection (b)(4) requires attestation that nitrous oxide/analgesia equipment is "properly calibrated." In its comments, the PSA notes that this provision does not place any burden on the permit renewal applicant to show that the equipment has been properly maintained. The PSA suggests that the phrase "and maintained" be inserted after "calibrated." We agree and suggest that the Board incorporate this change in the final-form regulation. Also, the same revision should be made in § 33.340(a)(9).

**11. Section 33.339. Fees for issuance of permits.—Reasonableness.**

Paragraphs (1)(ii) and (2)(ii) set the permit renewal fees at \$200 for an unrestricted permit and a restricted permit I. Although these fees represent a \$100 reduction from the renewal fees in the Board's existing regulations, the revised fee levels for renewals are still twice as much as the \$100 fee for an initial unrestricted permit or restricted permit I. Why are the renewal fees twice as much as the initial issuance fees?

**12. Section 33.340. Duties of dentists who are unrestricted permit holders.—Consistency with the statute; Protection of the public health, safety and welfare; Reasonableness; Clarity.**

Subsection (a)(1) requires that a patient medical history "be taken or updated and the patient is given a physical evaluation . . ." Subsection (a)(12) requires the patient's medical history and physical evaluation be done by "the permit holder, physician or CRNA." Section 11.2(e) of the Dental Law requires "permit holders to conduct a physical examination and take a medical history of the patient . . ." Therefore, subsection (a)(1) should be amended to specify that the permit holder shall take the medical history and conduct the physical evaluation. Subsection (a)(12) should be deleted. The same clarification should be made in §§ 33.340a(a)(1) and 33.340b(a)(1).

Subsection (a)(3) references "auxiliary personnel who assist the permit holder in the administration of general anesthesia, deep sedation or conscious sedation." Who are the "auxiliary personnel"?

Subsection (a)(8) requires that general anesthesia or deep sedation administered to pediatric patients be "administered by a person dedicated solely to the administration and monitoring of anesthesia." Why does this requirement apply to only pediatric patients rather than any patient receiving general anesthesia or deep sedation? The Board should explain how the health and safety of the patient is protected if a separate person is not dedicated to administering and monitoring the anesthesia.

Subsection (a)(10) requires the nonpermit holder's office and equipment transported to the nonpermit holder's office to be inspected by an approved peer review organization. It is unclear when the transported equipment is to be inspected since it would not necessarily be in the nonpermit holder's office at the time of the office inspection. We request the Board clarify how this provision will be implemented.

**13. Section 33.340a. Duties of dentists who are restricted permit I holders.—Need; Reasonableness; Clarity.**

Subsection (a)(3) references "auxiliary personnel who assist the permit holder in the administration of conscious sedation." Who are the "auxiliary personnel"?

Subsection (a)(4)(i) requires CRNAs to perform under the "direct on-premises supervision of the permit holder, who shall assume full responsibility for the performance of the duties." The same language appears in § 33.340(a)(3)(ii). We question the need for these provisions. The State Board of Nursing regulations in 49 Pa. Code § 21.17(3) and (4) specify the supervision requirements applicable to CRNAs. Rather than establish separate requirements under this regulation, we suggest that the Board amend subsection (a)(4)(i) and § 33.340(a)(3)(ii) to cross-reference the supervision requirements for CRNAs in 49 Pa. Code § 21.17(3) and (4).

**14. Section 33.341. Duties of dentists who are not permit holders.—Reasonableness; Clarity.**

*Subsection (a)(2)*

This subsection requires that the dental office be inspected and meet appropriate standards in the regulation. The PDA feels that the inspection of the office of the nonpermit holder is not necessary. The PDA indicates that the inspection of the equipment of the permit holder is sufficient under the law and the permit holder should be responsible for ensuring that all required equipment and facility requirements are present. We concur with this assessment. The Board should revise this requirement to state that the permit holder should be responsible for ensuring that the appropriate equipment and facility requirements are met. However, if the Board intends to maintain this provision, it should set forth the list of facility requirements for which the nonpermit holder will be held responsible. A similar concern exists in subsection (a)(6).

*Subsection (a)(5)*

We have two concerns with this subsection.

First, the requirements in this subsection state that the nonpermit holder should verify with the permit holder that the equipment is installed properly and calibrated. However, the PDA believes this provision should be deleted because only the permit holders should be responsible for verifying that the standards are met. We agree. The Board should delete the language that indicates that the nonpermit holder is also responsible for verification.

Second, this subsection does not specify what type of verification is required to meet the statutory standards. Should this verification be in writing? The Board should insert language that clearly delineates what kind of verification is required.

**15. Section 33.342. Inspection of dental offices.—Clarity.**

The term "authorized agents" is used in subsection (a). However, this term is not defined. Whom does the Board consider an "authorized agent"? Do the organizations in

§ 33.336b fall under this term? For clarity, the Board should define "authorized agent."

**State Board of Medicine Regulation No. 16A-4918  
(IRRC No. 2399)**

**Disciplinary Process and Procedure**

**June 9, 2004**

We submit for consideration the following comments that include references to the criteria in the Regulatory Review Act (71 P. S. § 745.5b) which have not been met. The State Board of Medicine (Board) must respond to these comments when it submits the final-form regulation. The public comment period for this regulation closed on May 10, 2004. If the final-form regulation is not delivered within 2 years of the close of the public comment period, the regulation will be deemed withdrawn.

**1. Section 16.55. Complaint process.—Clarity.**

Subsection (a) begins "A person, firm, corporation or public officer may submit a written complaint . . ." To clarify its intent, the Board should delete all the terms except for "person," which is defined in section 1991 of the Statutory Construction Act (1 Pa.C.S. § 1991). Section 1991 defines "person" to include all types of organizational entities as well as a natural person.

**2. Section 16.58. Appeal from the Board decision.—Reasonableness.**

This section allows a respondent to appeal a decision by the Board to the Commonwealth Court if "the appeal is based on allegations of certain errors of law under terms and conditions as cover appeals and actions involving State agencies under 2 Pa.C.S. § 702 (relating to appeals)." The House Professional Licensure Committee (Committee) in its comments described this language as "too limiting and narrow in its scope."

The Committee refers to both statutory and constitutional grounds for its concern. The statute (2 Pa.C.S. § 702) referenced by the Board asserts that any person, who is aggrieved by an adjudication of a Commonwealth agency and has a direct interest in the adjudication, has the right to appeal the decision to the court vested with jurisdiction. The right to an appeal is also included in Article V Section 9 of the Pennsylvania Constitution.

We agree that the right of appeal cannot be limited to "allegations of certain errors of law." Therefore, language that would constrain the right of appeal should be deleted from this section in the final-form regulation. However, we recommend that the regulation reference 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law).

JOHN R. MCGINLEY, Jr.,  
*Chairperson*

[Pa.B. Doc. No. 04-1085. Filed for public inspection June 18, 2004, 9:00 a.m.]

**Notice of Filing of Final Rulemakings**

The Independent Regulatory Review Commission (Commission) received the following regulations on the dates indicated. To obtain the date and time of the meeting at which the Commission will consider these regulations, contact the Commission at (717) 783-5417 or visit its website: [www.irrc.state.pa.us](http://www.irrc.state.pa.us). To obtain a copy of a

regulation, contact the promulgating agency.

*Final-Form*

<i>Reg. No.</i>	<i>Agency/Title</i>	<i>Received</i>
2-142	Department of Agriculture Sheep and Lamb Marketing Program; Wine Marketing and Research Program	6/7/04
16A-603	State Board of Vehicle Manufacturers, Dealers and Salespersons Vehicle Auction License	6/9/04
16A-605	State Board of Vehicle Manufacturers, Dealers and Salespersons Branch Lots	6/8/04
16A-607	State Board of Vehicle Manufacturers, Dealers and Salespersons Consignment Sales	6/8/04

JOHN R. MCGINLEY, Jr.,  
*Chairperson*

[Pa.B. Doc. No. 04-1086. Filed for public inspection June 18, 2004, 9:00 a.m.]

## INSURANCE DEPARTMENT

### Capital Blue Cross; Community Rated and Association Groups; Demographic Rating Methodology for Groups with 50 or Fewer Employees; Rate Filing

On June 2, 2004, the Insurance Department (Department) received from Capital Blue Cross a filing to refine the demographic rating adjustments for small groups. The proposed refinements include separate medical and pharmacy demographic factors, revised industry factors, removal of the demographic rate bands and the addition of a tier unit adjustment. The impact of the filing will be revenue neutral to Capital Blue Cross. The proposed effective date is January 1, 2005.

Unless formal administrative action is taken prior to November 1, 2004, the subject filing may be deemed approved by operation of law.

A copy of the filing is available on the Department's website: [www.ins.state.pa.us](http://www.ins.state.pa.us). To access the filing, select "Consumer Information" on the left side. Under "General Information," click on "Notices." The pdf copy is at the "Filing.pdf" link following the name of the filing.

Copies of the filing are also available for public inspection, by appointment, during normal working hours at the Department's regional office in Harrisburg.

Interested parties are invited to submit written comments, suggestions or objections to Cherri Sanders-Jones, Insurance Department, Insurance Product Regulation and Market Enforcement, Room 1311, Strawberry Square, Harrisburg, PA 17120, [csandersjo@state.pa.us](mailto:csandersjo@state.pa.us) within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

M. DIANE KOKEN,  
*Insurance Commissioner*

[Pa.B. Doc. No. 04-1087. Filed for public inspection June 18, 2004, 9:00 a.m.]

### Keystone Health Plan Central; Base Rates; Rate Filing

Keystone Health Plan Central requests, with filing no. 04-A, approval to revise its base rates with proposed effective dates of October 1, 2004, through December 31, 2005.

The requested rate changes for the three service areas ranges as follows based on the quarter:

Lehigh Valley	27.10% to 33.48%
Harrisburg	22.75% to 28.92%
Northern Tier	20.91% to 26.98%

With this filing, Keystone Health Plan Central will combine its three service areas into one and make other changes to make a seamless offering of the HMO product with other Capital Blue Cross products. In addition, age/sex rating would be by contract holder instead of member and Demographic rating would change from sizes 51 and higher down to groups of size 2.

The filing will impact approximately 96,000 members and generate additional revenue amounting to \$50.7 million annually.

A copy of the filing is available on the Insurance Department's (Department) website: [www.ins.state.pa.us](http://www.ins.state.pa.us). To access the filing, select "Consumer Information" on the left side. Under "General Information," click on "Notices." The pdf copy is at the "Filing.pdf" link following the name of the filing.

Copies of the filing are available for public inspection during normal working hours, by appointment, at the Department's regional office in Harrisburg.

Interested parties are invited to submit written comments, suggestions or objections to Rashmi Mathur, Actuary, Bureau of Accident and Health Insurance, Insurance Department, 1311 Strawberry Square, Harrisburg, PA 17120 within 15 days after publication of this notice in the *Pennsylvania Bulletin*.

M. DIANE KOKEN,  
*Insurance Commissioner*

[Pa.B. Doc. No. 04-1088. Filed for public inspection June 18, 2004, 9:00 a.m.]

### Keystone Health Plan Central; Group Demographic Rating Methodology for Groups with 50 or Fewer Employees and Demographic Factor Adjustments for Group Specific Community Rated Groups; Rate Filing

On June 2, 2004, the Insurance Department (Department) received from Keystone Health Plan Central a filing to implement demographic rating for small groups and to modify the demographic factors approved in the Group Specific Community Rating Methodology. The filing once approved will consider age, gender and industry in the development of the small group rate. The impact of the filing will be revenue neutral to Keystone Health Plan Central. The proposed effective date is January 1, 2005.

Unless formal administrative action is taken prior to November 1, 2004, the subject filing may be deemed approved by operation of law.

A copy of the filing is available on the Department's website: [www.ins.state.pa.us](http://www.ins.state.pa.us). To access the filing, select

"Consumer Information" on the left side. Under "General Information," click on "Notices." The pdf copy is at the "Filing.pdf" link following the name of the filing.

Copies of the filing are also available for public inspection, by appointment, during normal working hours at the Department's regional office in Harrisburg.

Interested parties are invited to submit written comments, suggestions or objections to Cherri Sanders-Jones, Insurance Department, Insurance Product Regulation and Market Enforcement, Room 1311, Strawberry Square, Harrisburg, PA 17120, csandersjo@state.pa.us within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

M. DIANE KOKEN,  
Insurance Commissioner

[Pa.B. Doc. No. 04-1089. Filed for public inspection June 18, 2004, 9:00 a.m.]

### **Keystone Health Plan Central; Prescription Drug Rates; Rate Filing**

Keystone Health Plan Central requests, with filing no. 04-C, approval to revise its prescription drug rates with proposed effective dates of October 1, 2004, through December 31, 2005.

The requested rate changes range from 8.24% to 61.11% based on the plan, region and quarter.

With this filing, Keystone Health Plan Central will combine its three service areas into one and make other changes to make a seamless offering of the HMO product with other Capital Blue Cross products. In addition, age/sex rating would be applied to the drug program. These factors would be different from the base rates age/sex factors.

The filing will impact approximately 70,000 members and generate additional revenue amounting to \$9.6 million annually.

A copy of the filing is available on the Insurance Department's (Department) website: [www.ins.state.pa.us](http://www.ins.state.pa.us). To access the filing, select "Consumer Information" on the left side. Under "General Information," click on "Notices." The pdf copy is at the "Filing.pdf" link following the name of the filing.

Copies of the filing are available for public inspection during normal working hours, by appointment, at the Department's regional office in Harrisburg.

Interested parties are invited to submit written comments, suggestions or objections to Rashmi Mathur, Actuary, Bureau of Accident and Health Insurance, Insurance Department, 1311 Strawberry Square, Harrisburg, PA 17120 within 15 days after publication of this notice in the *Pennsylvania Bulletin*.

M. DIANE KOKEN,  
Insurance Commissioner

[Pa.B. Doc. No. 04-1090. Filed for public inspection June 18, 2004, 9:00 a.m.]

### **Peerless Insurance Company; Homeowners Rate/Rule Filing**

On May 26, 2004, the Insurance Department (Department) received from Peerless Insurance Company a filing

for a rate level and rule change for their Homeowners Program.

The company requests an overall 0.1% increase amounting to \$16,000 annually, to be effective September 1, 2004, for new business and August 15, 2004, for renewal business.

Unless formal administrative action is taken prior to July 25, 2004, the subject filing may be deemed approved by operation of law.

A copy of the filing is available on the Department's website: [www.ins.state.pa.us](http://www.ins.state.pa.us). To access the filing, select "Consumer Information" on the left side. Under "General Information," click on "Notices." The pdf copy is at the "Filing.pdf" link following the name of the filing.

Copies of the filing are also available for public inspection, by appointment, during normal working hours at the Department's regional offices in Harrisburg, Philadelphia and Pittsburgh.

Interested parties are invited to submit written comments, suggestions or objections to Xiaofeng Lu, Insurance Department, Insurance Product Regulation and Market Enforcement, Room 1311, Strawberry Square, Harrisburg, PA 17120, xlu@state.pa.us within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

M. DIANE KOKEN,  
Insurance Commissioner

[Pa.B. Doc. No. 04-1091. Filed for public inspection June 18, 2004, 9:00 a.m.]

### **Penn Treaty Network America Insurance Company; Rate Increase Filing for Long Term Care Series LTC-1; Rate Filing**

Penn Treaty Network America is requesting approval to increase the premium 50% for the Long Term Care form LTC-1 and the associated riders. The average premium will increase from \$1,044 to \$1,566 and will affect 1,633 policyholders in this Commonwealth.

Unless formal administrative action is taken prior to September 2, 2004, the subject filing may be deemed approved by operation of law.

A copy of the filing is available on the Insurance Department's (Department) website: [www.ins.state.pa.us](http://www.ins.state.pa.us). To access the filing, select "Consumer Information" on the left side. Under "General Information," click on "Notices." The pdf copy is at the "Filing.pdf" link following the name of the filing.

Copies of the filing are also available for public inspection, by appointment, during normal working hours at the Department's regional office in Harrisburg.

Interested parties are invited to submit written comments, suggestions or objections to James Laverty, Actuary, Insurance Department, Insurance Product Regulation and Market Enforcement, Room 1311, Strawberry Square, Harrisburg, PA 17120, jlaverty@state.pa.us within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

M. DIANE KOKEN,  
Insurance Commissioner

[Pa.B. Doc. No. 04-1092. Filed for public inspection June 18, 2004, 9:00 a.m.]

### Per Diem Charges for Financial Examinations; Notice No. 2004-04

Under the authority in section 907 of The Insurance Department Act of 1921 (40 P.S. § 323.7) and 31 Pa. Code § 12.4 (relating to per diem charges), an updated schedule of per diem changes for financial examinations conducted by the Insurance Department (Department) is adopted.

The new schedule of charges is as follows:

Examiner Trainee	\$240 per day
Actuary 1	\$476 per day
Examiner 1	\$305 per day
Examiner 2	\$405 per day
Examiner 3	\$469 per day
Examination Manager	\$568 per day

As prescribed in 31 Pa. Code § 12.4(c), the Department will calculate and bill per diem charges for financial examination costs in 1/2-hour units.

This schedule is effective July 1, 2004.

This document supersedes the notice published at 33 Pa.B. 2721 (June 7, 2003) and shall remain in effect until a subsequent notice is published in the *Pennsylvania Bulletin*.

M. DIANE KOKEN,  
*Insurance Commissioner*

[Pa.B. Doc. No. 04-1093. Filed for public inspection June 18, 2004, 9:00 a.m.]

### Per Diem Charges for Market Conduct Examinations; Notice No. 2004-05

Under the authority in section 907 of The Insurance Department Act of 1921 (40 P.S. § 323.7) and 31 Pa. Code § 12.4 (relating to per diem charges), an updated schedule of per diem changes for market conduct examinations conducted by the Insurance Department (Department) is adopted.

The new schedule of charges is as follows:

Examiner Trainee	\$236 per day
Examiner 1	\$277 per day
Examiner 2	\$383 per day
Examiner Manager	\$447 per day

As prescribed in 31 Pa. Code § 12.4(c), the Department will calculate and bill per diem charges for examination costs in 1/2-hour units.

This schedule is effective July 1, 2004.

This document supersedes the notice published at 33 Pa.B. 2721 (June 7, 2003) and shall remain in effect until a subsequent notice is published in the *Pennsylvania Bulletin*.

M. DIANE KOKEN,  
*Insurance Commissioner*

[Pa.B. Doc. No. 04-1094. Filed for public inspection June 18, 2004, 9:00 a.m.]

### Stonebridge Life Insurance Company; Rate Increase Filing for Long Term Care Series D425; Rate Filing

Stonebridge Life Insurance Company is requesting approval to increase the premium 35% for the Long Term Care Form D425 and the associated riders. This policy was originally issued by J C Penny Life Insurance Company. The average premium will increase from \$1,747 to \$2,167 and will affect 434 policyholders in this Commonwealth.

Unless formal administrative action is taken prior to August 18, 2004, the subject filing may be deemed approved by operation of law.

A copy of the filing is available on the Insurance Department's (Department) website: [www.ins.state.pa.us](http://www.ins.state.pa.us). To access the filing, select "Consumer Information" on the left side. Under "General Information," click on "Notices." The pdf copy is at the "Filing.pdf" link following the name of the filing.

Copies of the filing are also available for public inspection, by appointment, during normal working hours at the Department's regional office in Harrisburg.

Interested parties are invited to submit written comments, suggestions or objections to James Laverty, Actuary, Insurance Department, Insurance Product Regulation and Market Enforcement, Room 1311, Strawberry Square, Harrisburg, PA 17120, [jlaverty@state.pa.us](mailto:jlaverty@state.pa.us) within 15 days after publication of this notice in the *Pennsylvania Bulletin*.

M. DIANE KOKEN,  
*Insurance Commissioner*

[Pa.B. Doc. No. 04-1095. Filed for public inspection June 18, 2004, 9:00 a.m.]

### Westfield Insurance Company; Homeowners Insurance Rule/Rate Revision; Rate Filing

On May 28, 2004, the Insurance Department (Department) received from Westfield Insurance Company a filing for a proposed rate level and rule change for homeowners insurance.

The company requests an overall 4.0% increase amounting to \$1.016 million annually, effective October 1, 2004.

Unless formal administrative action is taken prior to July 27, 2004, the subject filing may be deemed approved by operation of law.

A copy of the filing is available on the Department's website: [www.ins.state.pa.us](http://www.ins.state.pa.us). To access the filing, select "Consumer Information" on the left side. Under "General Information," click on "Notices." The pdf copy is at the "Filing.pdf" link following the name of the filing.

Copies of the filing are also available for public inspection, by appointment, during normal working hours at the Department's regional offices in Harrisburg, Philadelphia and Pittsburgh.

Interested parties are invited to submit written comments, suggestions or objections to Xiaofeng Lu, Insurance Department, Insurance Product Regulation and Market Enforcement, Room 1311, Strawberry Square, Harrisburg, PA 17120, [xlu@state.pa.us](mailto:xlu@state.pa.us) within 30 days



after publication of this notice in the *Pennsylvania Bulletin*.

M. DIANE KOKEN,  
Insurance Commissioner

[Pa.B. Doc. No. 04-1096. Filed for public inspection June 18, 2004, 9:00 a.m.]

## LEGISLATIVE REFERENCE BUREAU

### Documents Filed But Not Published

The Legislative Reference Bureau (Bureau) accepted the following documents during the preceding calendar month for filing without publication under 1 Pa. Code § 3.13(b) (relating to contents of Bulletin). The Bureau will continue to publish on a monthly basis either a summary table identifying the documents accepted during the preceding calendar month under this subsection or a statement that no documents have been received. For questions concerning or copies of documents filed, but not published, call (717) 783-1530.

#### *Executive Board*

Resolution # CB-04-124, Dated May 5, 2004. Authorizes implementation of the Memorandum of Understanding between the Commonwealth and the Pennsylvania Liquor Control Board Enforcement Officers III Meet and Discuss (K5) Unit.

MARY JANE PHELPS,  
Director  
*Pennsylvania Bulletin*

[Pa.B. Doc. No. 04-1097. Filed for public inspection June 18, 2004, 9:00 a.m.]

## PENNSYLVANIA PUBLIC UTILITY COMMISSION

### Cancellation Order

Public Meeting held  
May 27, 2004

*Commissioners Present:* Terrance J. Fitzpatrick, Chairperson; Robert K. Bloom, Vice Chairperson; Glen R. Thomas; Kim Pizzigrilli; Wendell F. Holland

*Pennsylvania Public Utility Commission Law Bureau  
Prosecutory Staff v. Worldxchange, Inc. (2002.0246.00);  
Doc. No. C-20031989; A-311038*

### Cancellation Order

#### *By the Commission:*

On December 19, 2003, Law Bureau Prosecutory Staff filed a Formal Complaint against Worldxchange, Inc. (Respondent), an IXC reseller certificated at A-311038. In the Complaint, Prosecutory Staff alleged that Commission staff had notified Respondent by both first class and certified mail, return receipt requested, that Respondent had failed to file its 2002 Annual Report. The Complaint requested that the Commission issue an order canceling the Respondent's certificate for failure to file its 2002 Annual Report.

Service of the Complaint was perfected on December 29, 2003. Respondent filed an Answer on February 13, 2004, stating that it filed for bankruptcy on April 24, 2001, and has had no operations since the summer of 2001. In its Answer, Respondent further stated that it sold substantially all of its assets in June 2001. Respondent requests to have its certificate cancelled since the company is out of business and all of its assets have been sold.

Based upon the foregoing, it is appropriate to sustain the complaint and cancel the certificate of public convenience of Worldxchange, Inc. We note that a review of Commission records shows that Respondent does not have any outstanding assessments or fines. We also note that because Respondent was never given any NXX codes, there are no numbering compliance issues. We reach this determination notwithstanding numerous technical violations of the Public Utility Code and our regulations since under the circumstances presented to us in this case, no practical benefits inure nor is the public interest advanced by any further prosecution of this entity.

The Commission puts the industry on notice that we will not hesitate to invoke our authority under the Public Utility Code to ensure timely compliance with our regulations and orders including the ordering of another remedy as the Commission may deem appropriate. Furthermore, the Commission may take other appropriate action, including the imposition of penalties under section 3301, in lieu of cancellation, if Respondent seeks relief from this order; *Therefore,*

#### *It Is Ordered That:*

1. The allegations in Law Bureau Prosecutory Staff's complaint are deemed admitted and the complaint is hereby sustained.
2. The certificate of public convenience held by Worldxchange, Inc. at A-311038 is hereby cancelled.
3. The Secretary strike the name of Worldxchange, Inc. from all active-utility lists maintained by the Annual Report Section of the Secretary's Bureau and the Assessment Section of the Bureau of Administrative Services.
4. Notice of this Cancellation Order shall be published in the *Pennsylvania Bulletin*.

JAMES J. MCNULTY,  
Secretary

[Pa.B. Doc. No. 04-1098. Filed for public inspection June 18, 2004, 9:00 a.m.]

### Investigation into Competition in the Natural Gas Supply Market

Public Meeting held  
May 27, 2004

*Commissioners Present:* Terrance J. Fitzpatrick, Chairperson; Robert K. Bloom, Vice Chairperson; Glen R. Thomas; Kim Pizzigrilli; Wendell F. Holland

*Investigation into Competition in the Natural Gas Supply Market; Doc. No. I-00040103*

### Order

#### *By the Commission:*

Section 2204(g) of the Natural Gas Choice and Competition Act (act) requires the Commission to initiate an investigation or other appropriate proceeding to deter-

mine whether effective competition for natural gas supply services<sup>1</sup> exists in this Commonwealth.<sup>2</sup> The proceeding must be launched 5 years after the effective date of the act. The act became effective July 1, 1999. Thus, we must initiate our investigation on, or shortly after July 1, 2004, to comply with the directive of the General Assembly. With this order, we initiate this investigation.

The purpose of the investigation is to determine the level of competition that exists currently in the natural gas supply service market in this Commonwealth. A party that wishes to submit written testimony shall file ten copies of his written testimony at this docket with the Commission's Secretary by Friday, August 27, 2004. An electronic copy of the testimony on a diskette must also be provided so that testimony can be posted at the Commission's website.

Parties are asked to address the following topics in their written testimony:

1. The assessment of the level of competition in this Commonwealth's natural gas supply service market.
2. The effect of the price of natural gas on competition.
3. The effect of consumer education on competition.
4. The effect of customer information/service on competition.
5. The effect of supplier financial security requirements on competition.
6. The effect of natural gas distribution company penalties and other costs on competition.
7. Discuss any avenues, including legislative, for encouraging increased competition in this Commonwealth.

Note that the list of topics is not all inclusive. Other topics that are relevant to assessing competition in the natural gas supply service market in this Commonwealth may also be addressed.

Additionally, the Commission will direct all natural gas distribution companies and licensed natural gas suppliers to provide the information requested in Appendix A. The receipt of this current and historical data should provide a more accurate and complete picture of competition in the market in this Commonwealth.

Following receipt of the written testimony, the Commission will hold an en banc hearing to further explore the level of competition in this Commonwealth. The en banc hearing will be held on September 30, 2004. The Commission will issue a Secretarial Letter addressing further procedural details for this hearing on or before September 10, 2004. The Commission wishes to remind interested parties are invited to contribute other relevant data and statistics related to this investigation; *Therefore,*

#### *It Is Ordered That:*

<sup>1</sup> The term "natural gas supply services" is defined as: (1) the sale or arrangement of the sale of natural gas to retail gas customers; and (2) services that may be unbundled by the Commission under section 2203(3) (relating to standards for restructuring of the natural gas utility industry) (66 Pa.C.S. § 2202(3)).

<sup>2</sup> § 2204(g) Investigation and report to General Assembly

Five years after the effective date of this chapter, the commission shall initiate an investigation or other appropriate proceeding, in which all interested parties will be given a chance to participate, to determine whether effective competition for natural gas supply services exists on the natural gas distribution companies' systems in this Commonwealth. The commission shall report its findings to the General Assembly. Should the commission conclude that effective competition does not exist, the commission shall reconvene the stakeholders in the natural gas industry in this Commonwealth to explore avenues, including legislative, for encouraging increased competition in this Commonwealth.

66 Pa.C.S. § 2204(g).

1. An investigation into competition in this Commonwealth's natural gas supply service market is initiated.

2. A copy of this order shall be served upon all natural gas distribution companies in this Commonwealth, the Philadelphia Gas Works, the Office of Consumer Advocate, the Office of Small Business Advocate, all licensed natural gas suppliers, the Energy Association of Pennsylvania, the Independent Oil and Gas Association and the Industrial Energy Consumers of Pennsylvania.

3. A person wishing to submit written testimony addressing the issues presented in this order shall do so by August 27, 2004. An original and ten copies of the written testimony and one diskette containing an electronic version of the written testimony shall be filed with the Commission's Secretary. Testimony should be addressed to James J. McNulty, Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265.

4. The natural gas distribution companies, the Philadelphia Gas Works and the natural gas companies shall file the answers to the questions appearing in Appendix A by August 27, 2004. An original and ten copies of the answers and an electronic version of the answers on a diskette shall be filed with the Commission's Secretary.

5. An en banc hearing will be held on September 30, 2004. The Commission will issue a Secretarial Letter addressing the procedural aspects for this hearing on or before September 10, 2004.

6. The contact persons for this investigation are Robert Bennett, Fixed Utility Services, (717) 787-5553, robennett@state.pa.us; and Patricia Krise Burket, Assistant Counsel, (717) 787-3464, pburket@state.pa.us.

7. This Order shall be published in the *Pennsylvania Bulletin* and that the Order and the written testimony submitted shall be posted on the Commission's website: [www.pucpaonline.com](http://www.pucpaonline.com).

JAMES J. MCNULTY,  
*Secretary*

### **Appendix A**

#### *Natural Gas Distribution Companies*

Each natural gas distribution company is directed to provide specific information about its system.

(1) For each quarter of the years 1999 to 2004, provide the following:

- (a) Number of natural gas suppliers operating on its distribution system;
- (b) Number of residential, industrial and commercial customers purchasing gas from alternative suppliers;
- (c) Volume of natural gas transported on its distribution system;
- (d) Volume of natural gas transported for suppliers on its distribution system.

(e) Numbers of customer complaints/disputes regarding slamming or unauthorized change of supplier; changing a supplier; selecting a supplier; confusion regarding a bill on which charges appear for natural gas from an alternative supplier; error in billing for a supplier; and any other issue competition-related issue.

(2) Provide the following information about security requirements that natural gas suppliers are required to maintain for licensure (66 Pa.C.S. § 2208(c)(1)(i)):

- (a) Security requirement as posted in the distribution company's initial supplier tariff.

(b) Each change that was made to this security requirement to date.

#### *Natural Gas Suppliers*

Natural gas suppliers are directed to provide specific information regarding sales volume and customer number. For each of the quarters of the years 1999 to 2004, provide the following:

- (1) Number of customers (by class) for each distribution system on which the supplier operates.
- (2) Volume of natural gas delivered to customers (by class) on each system on which the supplier operates.
- (3) Numbers of customer complaints/disputes regarding slamming or unauthorized change of supplier; changing a supplier; selecting a supplier; confusion regarding a bill on which charges appear for natural gas from an alternative supplier; error in billing for a supplier; and any other issue competition-related issue.

[Pa.B. Doc. No. 04-1099. Filed for public inspection June 18, 2004, 9:00 a.m.]

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### Order

Public Meeting held  
May 27, 2004

*Commissioners Present:* Terrance J. Fitzpatrick, Chairperson; Robert K. Bloom, Vice Chairperson; Glen R. Thomas; Kim Pizzingrilli; Wendell F. Holland

*Digizip.com Inc. Petition for Reinstatement of Certificate of Public Convenience (2003.0096.01); A-311173*

### Order

#### *By the Commission:*

On May 23, 2003, the Commission entered a Tentative Order at this docket against Digizip.com Inc. (Digizip), a telecommunications interexchange reseller certificated at A-311173, tentatively revoking Digizip's certificate of public convenience for failure to return the Annual Assessment Report for Fiscal Year 2003/2004 under section 520(b) of the Public Utility Code (66 Pa.C.S. § 520(b)). A Tentative Order was entered rather than the filing of a complaint and subsequent Default Order because the company had failed in its responsibility to notify the Commission of any address or phone number changes so there was no reasonable means for filing a complaint with the expectation that Digizip.com would receive it and thereafter file a response. The Tentative Order was published June 7, 2003, in the *Pennsylvania Bulletin* at 33 Pa.B. 2727, with a 30-day comment period. When no adverse comments regarding the certificate revocation were filed during the comment period, the Tentative Order became final without further action of this Commission; however, Digizip's certificate was never officially cancelled by the Secretary's Bureau.

On June 9, 2003, Digizip filed its 2003/2004 Annual Assessment Report with the Commission. However, at the time of the filing, Digizip was unaware that the Commission had commenced revocation of Digizip's certificate through issuance of the Tentative Order and was not aware of the process required to request reconsideration of the Tentative Order before it became final. It was only after the Tentative Order became final that Digizip learned about the separate revocation proceedings. There-

after, on August 11, 2003, Digizip filed a Petition for Reinstatement of Certificate of Public Convenience.

In its Petition, Digizip states that to avoid additional failures to file annual assessment reports, it has set up a new internal system for monitoring the filing of these reports, as well as other State compliance requirements. Digizip states that taking these steps will ensure that it timely complies with future filing deadlines. Digizip requests reinstatement since it has now filed its 2003/2004 Annual Assessment Report and has taken necessary steps to ensure that it will not again be delinquent with these filings.

It is well-settled that decisions such as whether to grant a petition for reinstatement are left to the Commission's discretion and will be reversed on appeal only if that discretion is abused. *Hoskins Taxi Serv. v. Pa. P.U.C.*, 486 A.2d 1030 (Pa. Cmwlth. 1985). In ruling upon a reinstatement petition, it is incumbent upon this Commission to examine all relevant factors to reach an equitable result. *Re: Medical Transportation, Inc.*, 57 Pa. P.U.C. 79 (1983).

The Commission has identified five factors that are particularly relevant to the adjudication of a petition to reinstate: (1) the amount of time that elapsed between the cancellation of the certificate of public convenience and the filing of the petition; (2) whether the petitioner has a record of habitually violating the Public Utility Code; (3) the reasonableness of the excuse given for the violation that caused the certificate to be canceled; (4) whether the petitioner has implemented procedures to prevent a recurrence of the circumstances giving rise to the cancellation; and (5) whether the petitioner is current in the payment of all Commission fines and assessments. *Re: M.S. Carriers, Inc.*, Dkt. No. A-00110601 (May 4, 1999).

In considering the first factor, we note that only approximately 11 weeks elapsed between when the Tentative Order was entered on May 23, 2003, and Digizip's request for reinstatement on August 11, 2003, and that Digizip actually filed its overdue 2003/2004 Annual Assessment Report in early June during the 30-day comment period.

In regard to the second factor, Digizip does not have a record of habitually violating the Public Utility Code. Digizip has had no additional complaints issued against it since the issuance of its certificate in 2002.

In considering the third and fourth factors, Digizip's excuse for the violation was that its internal system for monitoring the compliance filing requirements was inadequate and that it has taken the necessary steps to ensure that its regulatory compliance remains in good standing in the future. The fact that Digizip has now complied with its Annual Assessment reporting requirements for 2003/2004 and has represented to the Commission that it has taken action internally to ensure future compliance militates toward reinstatement.

The fifth factor requires that all outstanding fines and/or assessments be paid prior to reinstatement. A review of Commission records shows that Digizip has no unpaid fines or assessments.

Based upon the foregoing, we grant Digizip's petition for reinstatement. However, we caution Digizip that in the future annual assessment reports required to be filed with the Commission must be timely filed and all Commission assessments must be paid in a timely manner; *Therefore*,

*It Is Ordered That:*

1. The Petition for Reinstatement filed by Digizip.com Inc. at A-311173 on August 18, 2003, is hereby granted.
2. The certificate of public convenience held by Digizip.com Inc. at A-311173 is hereby reinstated.
3. The Secretary cause a copy of this Order to be published in the *Pennsylvania Bulletin*.

JAMES J. MCNULTY,  
*Secretary*

[Pa.B. Doc. No. 04-1100. Filed for public inspection June 18, 2004, 9:00 a.m.]

### Recalculation of the Pennsylvania Telecommunications Relay Service Surcharge

Public Meeting held  
May 27, 2004

*Commissioners Present:* Terrance J. Fitzpatrick, Chairperson; Robert K. Bloom, Vice Chairperson; Glen R. Thomas; Kim Pizzigrilli; Wendell F. Holland

*Recalculation of the Pennsylvania Telecommunications Relay Service Surcharge; Doc. No. M-00900239F0006*

#### Order

#### *By the Commission:*

In accordance with Ordering Paragraph No. 10 of our May 29, 1990, Opinion and Order at Docket No. M-00900239 and Act 34 of 1995, as amended by Act 181 of 2002, 35 P.S. § 6701.1, et seq., we have completed the recalculation of the Pennsylvania Relay Service surcharges as they apply to residence and business customers for the ensuing 12-month period from July 1, 2004, through June 30, 2005.

Our May 29, 1990, Opinion and Order at Docket No. M-00900239 contains provisions in Ordering Paragraph No. 10, which sets forth the following schedule outlining the annual calculation of the Pennsylvania Relay Service System Surcharge:

10. That this Commission shall annually calculate the surcharge according to the following schedule:

a) April 30. The LECs will provide, for Commission approval, the total number of access lines adjusted for Centrex lines through the use of ATTACHMENT A, Line to Trunk Equivalency Table.

b) May 1. The Relay Service Provider will supply to the Commission a statement of the estimated minutes of Relay Service use and the annual charges for the ensuing twelve (12) month period July 1 through June 30.

c) May 1. The Fund Administrator shall provide to the Commission a Statement of the financial status of the Fund.

d) June 1. The Commission shall notify the Local Exchange Carriers of the new surcharge rate to be applied for the prospective period.

e) July 1. The new surcharge rate will become effective for the ensuing twelve (12) month period with conforming tariffs to be filed upon one day's notice in the format set forth in the PTA Petition at Appendix 8.

The Commission may revise the surcharge more frequently than annually at its discretion.

In July, 1995, the Telecommunication Device Distribution Program (TDDP) was established to provide specialized telecommunications devices such as text telephones and amplifiers to qualified persons. 35 P.S. § 6701.1 et seq. In 2002, this law was amended to expand the definition of "person with a disability" and "people with disabilities" to include persons who have a disability and who require technology to independently access telecommunications services. 35 P.S. § 6701.2. The law provides the following:

Section 4 . . . (c) Additional use of surcharge.—The program shall be funded by the Telecommunication Relay Service Program surcharge, as calculated by the commission on an annual basis under the methodology established by the commission Order entered May 29, 1990 and July 9, 1990, at Docket Number M-900239. The executive director of the Office of Vocational Rehabilitation in the [D]epartment [of Labor and Industry] shall provide the commission with an annual budget and supporting information for the purchase of telecommunication devices for the program.

Under the aforementioned schedule, the following actions have been taken:

1. The local exchange carriers<sup>1</sup> submitted their updated access line counts. The total number of access lines, adjusted for Centrex lines is 8,107,727, which includes 5,512,518 residence access lines and 2,595,209 business access lines.

2. The Relay Service Provider, AT&T Communications of Pennsylvania, Inc., has submitted the estimated minutes and charges for the period July 1, 2004, through June 30, 2005.

3. Wachovia Bank, N.A.<sup>2</sup> the Fund Administrator, has provided a statement of the financial status of the Fund.<sup>3</sup>

4. The executive director of the Office of Vocational Rehabilitation (OVR) has submitted its ninth annual budget. The TDDP began its distribution program in June 1997.

5. Based upon the total number of access lines submitted by the LECs, estimated cost of the CapTel trial,<sup>4</sup> the cost of the consumer education outreach campaign,<sup>5</sup> estimated expenses of the TRS for the period July 1, 2004, through June 30, 2005,<sup>6</sup> and the financial status of the TRS Fund, we shall decrease the existing residential and business monthly surcharges of \$0.08 and \$0.17 to \$0.07 and \$0.13 per access line, respectively, effective July 1,

<sup>1</sup> Including both incumbent local exchange carriers and competitive local exchange carriers.

<sup>2</sup> Hamilton Bank changed its name to CoreStates Bank N.A. in 1995 as the result of a merger and to First Union National Bank in 1999, and to Wachovia Bank, N.A. in 2002.

<sup>3</sup> Separate accounts are maintained for the portion of the surcharge allocated to TRS and the portion allocated to the TDDP.

<sup>4</sup> On February 6, 2003, the Commission approved a motion of the TRS Advisory Board permitting a 9-month trial of the CapTel phone, with a possibility of two 3-month extensions. Both of the 3-month extensions received Commission approval, and the CapTel Trial will continue through July 31, 2004. The Commission is actively exploring their options, but has made no decision at this time regarding the future use of CapTel.

<sup>5</sup> By Secretarial Letter dated June 3, 2003, AT&T was directed to submit an Implementation Plan of its proposal for consumer education outreach. On September 29, 2003, the Commission unanimously accepted the Implementation Plan, and W.J. Green & Associates, Inc. started the outreach campaign in October, 2003. The campaign will continue for 2 years at a cost of \$500,000 per year until September 2005. At that time, the results of the campaign will be evaluated and a determination will be made as to whether or not to continue with the campaign.

<sup>6</sup> The estimated expenses include: the estimated minutes of Telecommunications Relay Service use and estimated charges submitted by AT&T, the estimated Relay Advisory Board expenses, the estimated compensation to the Fund Administrator, and the estimated budget for the TDDP submitted by the OVR.

2004.<sup>7</sup> All surcharge revenues shall continue to be remitted to the Wachovia Bank, N.A.<sup>8</sup> as the Fund Administrator. These monthly surcharges shall be allocated as follows:

	<i>Monthly Surcharge</i>	
	<i>Residence</i>	<i>Business</i>
Telecom. Relay Service	\$0.06	\$0.12
Telecom. Device Distribution	\$0.01	\$0.01
Total Surcharge	\$0.07	\$0.13

We note that we actively oversee the operations of the Pennsylvania Telecommunications Relay Service. In addition, our staff continues to collaborate with the Department of Labor and Industry and its distribution administrator to ensure distribution of TDDP equipment to low-income households in accordance with 35 P.S. § 6791.1 et. seq.

Additionally, it should be noted that, consistent with our order at M-00900239F0003 entered May 29, 2003, the Commission is moving forward with its intent to audit both the TRS and the TDDP funds. Regarding the TRS fund, the Bureau of Audits is currently working to set up an audit process of AT&T's budgeted costs and actual expenditures of providing the relay service. Regarding the TDDP fund, a Memorandum of Understanding was executed on April 15, 2004, between the Commission and the Department of Labor and Industry setting forth the terms and conditions for this audit. Since the ratepayers of this Commonwealth are required to pay a surcharge on their monthly bills to support these programs, these on-going efforts to audit both the underlying program budgets and expenditures are appropriate to ensure fiscal responsibility; *Therefore,*

*It Is Ordered That:*

1. For the period of July 1, 2004, through June 30, 2005, the residence surcharge per access line per month shall decrease from \$0.08 to \$0.07 and the business surcharge per access line per month shall decrease from \$0.17 to \$0.13, unless we take action to revise the surcharge prior to June 30, 2005.

2. All incumbent local exchange carriers and competitive local exchange carriers are directed to use the attached form to remit the monthly TRS surcharge collections to Wachovia Bank, N.A.

3. All incumbent local exchange carriers and competitive local exchange carriers are directed to file revised tariff supplements to become effective July 1, 2004, on at least 1 day's notice, which decrease the residence and business surcharges in accordance with Ordering Paragraph No. 1.

4. A copy of this Order be served upon all incumbent local exchange carriers and competitive local exchange carriers, AT&T Communications Company of Pennsylvania, Inc., the Wachovia Bank, N.A., the Office of Vocational Rehabilitation in the Department of Labor and Industry, the Office of Consumer Advocate and the Office of Small Business Advocate.

5. A copy of this Order be published in the *Pennsylvania Bulletin*.

JAMES J. MCNULTY,  
*Secretary*

<sup>7</sup> The total TRS/TDDP decrease in the surcharge will be \$0.01 for residential customers and \$0.04 for business customers.

<sup>8</sup> Surcharge revenues should be remitted to the Wachovia Bank, N.A., Attn: Nancy Haney, 123 S. Broad St., PA4944, Philadelphia, PA 19109. Checks should be made payable to: PA Relay Service Fund.

REMITTANCE FORM FOR MONTHLY TRS  
SURCHARGE COLLECTIONS 2004-2005

All local service providers are required to collect and remit the TRS surcharge revenue monthly, by the 20th of each month, to the Wachovia Bank, N.A., ATTN: Nancy Haney, 123 S. Broad St.—PA 4944, Philadelphia, PA 19109. Please make your remittance checks payable to the Pennsylvania Relay Service Fund. It is advisable to use the following format for the monthly remittance:

*Pennsylvania Relay Service*

For the Month Ending \_\_\_\_\_

Number of Residential access lines	_____
(TRS) × \$0.06 per line	_____
Number of Residential access lines	_____
(TDDP) × \$0.01 per line	_____
Number of Business access lines	_____
(TRS) × \$0.12 per line	_____
Number of Business access lines	_____
(TDDP) × \$0.01 per line	_____

Total Remittance \_\_\_\_\_

Make check payable to: Pennsylvania Relay Service Fund

Send Report and payment to:

Wachovia Bank, N.A.  
Nancy Haney, Trust Administrator  
123 So. Broad Street—PA 4944  
Philadelphia, PA 19109

Remittance for: Company name(s)  
Address

Company Contact: Name  
Phone number

Authorized Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Please direct any questions regarding the TRS Surcharge remittance to Eric Jeschke at (717) 783-3850.

[Pa.B. Doc. No. 04-1101. Filed for public inspection June 18, 2004, 9:00 a.m.]

**Rescission Order**

Public Meeting held  
May 27, 2004

*Commissioners Present:* Terrance J. Fitzpatrick, Chairperson; Robert K. Bloom, Vice Chairperson; Glen R. Thomas; Kim Pizzigrilli; Wendell F. Holland

*Pennsylvania Public Utility Commission Law Bureau  
Prosecutory Staff v. American Phone Services Corp.  
(2003.0264); Doc. No. C-20031951; A-311002*

**Rescission Order**

*By the Commission:*

On October 17, 2003, Law Bureau Prosecutory Staff filed a Formal Complaint against American Phone Services Corp. (American or Respondent), an IXC reseller, certificated at A-311002, for failure to file its 2002 Annual Report. Subsequently, on April 8, 2004, the Commission entered a Default Order that sustained the complaint and cancelled Respondent's certificate of public convenience.

On April 13, 2004, 5 days subsequent to the entry date of the Default Order, American filed its delinquent 2002 Annual Report and paid the \$250 late-filing fee. American included a letter with its filing that requested that the Default Order be rescinded and that its certificate be reinstated.

By separate facsimile also dated April 13, 2004, American sent the Commission what was purported to be a copy of its 2002 Annual Report on its letterhead and a copy of a check in the amount of \$250. The faxed copies were both dated November 28, 2003, and were faxed to support Respondent's averment that its report was timely filed in response to the Prosecutory Staff Complaint. Unfortunately, a review of Commission records fails to confirm that these documents were received by the Commission in 2003.

In its Answer, Respondent gives no reason why its 2002 Annual Report was delinquent. It simply alleges that its report was filed in November, which we note, parenthetically, would also have made the filing delinquent. However, because Respondent filed its delinquent Annual Report and paid the late-filing fee 5 days after the entry date of the Default Order, we will grant Respondent's request for rescission of the Default Order. However, we caution American that all future Annual Reports must be timely filed and all Commission correspondence must be answered in a timely manner. The Commission hereby puts American and the rest of the industry on notice that we will not hesitate to invoke our authority under the Public Utility Code to ensure timely compliance with our regulations and orders including the ordering of another remedy as the Commission may deem appropriate; *Therefore*,

*It Is Ordered That:*

1. The Default Order entered April 8, 2004, at this docket is hereby rescinded.

2. A copy of this order be published in the *Pennsylvania Bulletin*.

JAMES J. MCNULTY,  
*Secretary*

[Pa.B. Doc. No. 04-1102. Filed for public inspection June 18, 2004, 9:00 a.m.]

**Rescission Order**

Public Meeting held  
May 27, 2004

*Commissioners Present:* Terrance J. Fitzpatrick, Chairperson; Robert K. Bloom, Vice Chairperson; Glen R. Thomas; Kim Pizzigrilli; Wendell F. Holland

*Pennsylvania Public Utility Commission Law Bureau  
Prosecutory Staff v. Ironton Telephone Co. (2003.0264);  
Doc. No. C-20031929; A-311650*

**Rescission Order**

*By the Commission:*

On October 17, 2003, Law Bureau Prosecutory Staff filed a Formal Complaint against Ironton Telephone Co. (Ironton or Respondent), a CLEC certificated at A-311650, for failure to file its 2002 Annual Report. Subsequently, on April 8, 2004, the Commission entered a Default Order that sustained the complaint and cancelled Respondent's certificate of public convenience. The notice of the Default

Order was published April 24, 2004, at 34 Pa.B. 2258 with a 20-day comment period.

On April 5, 2004, subsequent to the April 1, 2004, adoption date of the Default Order, but prior to the April 8, 2004, entry date, Ironton filed its 2002 Annual Report. It paid the \$250 late filing fee on April 14, 2004. By Answer dated April 16, 2004, it questioned why the Default Order had been entered in light of the fact that it had filed its outstanding 2002 Annual Report and paid the late-filing fee. In its Answer, Ironton requested that the Default Order be dismissed and the Complaint be deemed satisfied.

In its answer, Respondent gives no reason why its 2002 Annual Report was delinquent. It simply requests that the Default Order be dismissed because of its compliance. Because Respondent filed its delinquent annual report and paid the late-filing fee in the time period between the adoption and entry of the Default Order, and filed its answer only 8 days after the entry of the Default Order, we will grant Respondent's request for rescission. However, we caution Respondent that all future Annual Reports must be timely filed and all Commission correspondence must be answered in a timely manner. The Commission hereby puts Ironton and the rest of the industry on notice that we will not hesitate to invoke our authority under the Public Utility Code to ensure timely compliance with our regulations and orders including the ordering of another remedy as the Commission may deem appropriate; *Therefore*,

*It Is Ordered That:*

1. The Default Order entered April 8, 2004, at this docket is hereby rescinded.

2. A copy of this order be published in the *Pennsylvania Bulletin*.

JAMES J. MCNULTY,  
*Secretary*

[Pa.B. Doc. No. 04-1103. Filed for public inspection June 18, 2004, 9:00 a.m.]

**Rescission Order**

Public Meeting held  
May 27, 2004

*Commissioners Present:* Terrance J. Fitzpatrick, Chairperson; Robert K. Bloom, Vice Chairperson; Glen R. Thomas; Kim Pizzigrilli; Wendell F. Holland

*Pennsylvania Public Utility Commission Law Bureau  
Prosecutory Staff v. Ton Services, Inc. (2003.0264); Doc.  
No. C-20031931; A-310859*

**Rescission Order**

*By the Commission:*

On October 17, 2003, Law Bureau Prosecutory Staff filed a Formal Complaint against Ton Services, Inc. (Ton or Respondent), an interexchange reseller certificated at A-310859, for failure to file its 2002 Annual Report. Subsequently, on April 8, 2004, the Commission entered a Default Order that sustained the complaint and cancelled Respondent's certificate of public convenience. The notice of the Default Order was published April 24, 2004, at 34 Pa.B. 2265 with a 20-day comment period.

On May 6, 2004, within the specified 20-day comment period, Respondent filed its 2002 Annual Report and paid the \$250 late-filing fee. No letter accompanied this filing.

Because Respondent filed its delinquent annual report and paid the late-filing fee during the 20-day comment period stated in the *Pennsylvania Bulletin*, we find it appropriate to rescind the Default Order. However, we caution Respondent that all future Annual Reports must be timely filed and all Commission correspondence must be answered in a timely manner. The Commission hereby puts Ton and the rest of the industry on notice that we will not hesitate to invoke our authority under the Public Utility Code to ensure timely compliance with our regulations and orders including the ordering of another remedy as the Commission may deem appropriate; *Therefore,*

*It Is Ordered That:*

1. The Default Order entered April 8, 2004, at this docket is hereby rescinded.

2. A copy of this order be published in the *Pennsylvania Bulletin*.

JAMES J. MCNULTY,  
Secretary

[Pa.B. Doc. No. 04-1104. Filed for public inspection June 18, 2004, 9:00 a.m.]

### Rescission Order

Public Meeting held  
May 27, 2004

*Commissioners Present:* Terrance J. Fitzpatrick, Chairperson; Robert K. Bloom, Vice Chairperson; Glen R. Thomas; Kim Pizzingrilli; Wendell F. Holland

*Pennsylvania Public Utility Commission Law Bureau  
Prosecutory Staff v. Winstar of Pennsylvania, LLC  
(2003.0264); Doc. No. C-20031991; A-311171*

### Rescission Order

*By the Commission:*

On October 17, 2003, Law Bureau Prosecutory Staff filed a Formal Complaint against Winstar of Pennsylvania, LLC (Winstar or Respondent), an IXC reseller, CLEC, competitive access provider and switched access carrier certificated at A-311171, for failure to file its 2002 Annual Report. Subsequently, on April 8, 2004, the Commission entered a Default Order that sustained the complaint and cancelled Respondent's certificate of public convenience. The notice of the Default Order was published April 24, 2004, at 34 Pa.B. 2268 with a 20-day comment period.

On May 10, 2004, within the specified comment period, Respondent filed an Answer and its delinquent 2002 Annual Report and paid the \$250 late-filing fee. Respondent included a letter with its filing that requested that the Default Order be rescinded and that its certificate be reinstated.

In its Answer, Respondent stated that the failure to timely file its 2002 Annual Report was an oversight. Winstar avers that on April 1, 2002, the Commission approved its acquisition of the assets of Winstar Wireless of Pa. Respondent states that in its application, it indicated that for purposes of correspondence from the Commission, its address was 1850 M Street, NW, Suite 300, Washington, DC 20036. Respondent further states that the letters and Complaint regarding the 2002 Annual Report were sent to 1615 L Street, NW, Suite 1260, Washington, DC 20036, which Winstar Wireless of Pa., LLC occupied until 2001. Respondent explains that because Commission correspondence went to the wrong

address, it was never received. Since it has now complied with the 2002 Annual Report filing requirement, Winstar requests that the Default Order be rescinded and its certificate be reinstated. A review of Commission records confirms that the certified letters and the Complaint regarding the 2002 Annual Report went to the wrong address.

Based upon the fact that Respondent filed its delinquent annual report and paid the late-filing fee within the 20-day comment period, we will grant Respondent's request for rescission of the Default Order. However, we caution Respondent that all future Annual Reports must be timely filed and all Commission correspondence must be answered in a timely manner. The Commission hereby puts Winstar and the rest of the industry on notice that we will not hesitate to invoke our authority under the Public Utility Code to ensure timely compliance with our regulations and orders including the ordering of another remedy as the Commission may deem appropriate.

In this Order, we also advise Winstar of the requirement to notify the Commission of any change of address, and direct the Secretary's Bureau to change its records to reflect Winstar's mailing address as 1850 M Street, NW, Suite 300, Washington, DC 20036; *Therefore,*

*It Is Ordered That:*

1. The Default Order entered April 8, 2004, at this docket is hereby rescinded.

2. A copy of this order be published in the *Pennsylvania Bulletin*.

3. The Secretary's Bureau change its records to reflect that the correct mailing address for Winstar is 1850 M Street, NW, Suite 300, Washington, DC 20036.

JAMES J. MCNULTY,  
Secretary

[Pa.B. Doc. No. 04-1105. Filed for public inspection June 18, 2004, 9:00 a.m.]

### Service of Notice of Motor Carrier Applications

The following temporary authority and/or permanent authority applications for the right to render service as a common carrier or contract carrier in this Commonwealth have been filed with the Pennsylvania Public Utility Commission. Formal protests and petitions to intervene must be filed in accordance with 52 Pa. Code (relating to public utilities). A protest shall indicate whether it applies to the temporary authority application, the permanent authority application, or both. Filings must be made with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265, with a copy served on the applicant by July 12, 2004. Documents filed in support of the applications are available for inspection and copying at the Office of the Secretary between 8 a.m. and 4:30 p.m., Monday through Friday, and at the business address of the respective applicant.

**Applications of the following for approval to *begin operating as common carriers* for transportation of persons as described under each application.**

**A-00120808. Leherth Atkinson** (562 Broad Street, Chambersburg, Franklin County, PA 17201)—persons, upon call or demand, in the County of Franklin.

**A-00120333 (Corrected). C & S Ambulance Service, Inc.** (P. O. Box 150, Vandergrift, Westmoreland County,

PA 15690), a corporation of the Commonwealth—persons in paratransit service, between points in the Township of Washington, the Boroughs of Vandergrift and East Vandergrift, all in Westmoreland County, the Township of Parks, Armstrong County and the Boroughs of Cabot and Saxonburg, Butler County; subject to the following restrictions: (1) the service provided in Parks Township, Armstrong County, Vandergrift and East Vandergrift Boroughs, Westmoreland County, is limited to members of the Vandergrift Ambulance Service; (2) the service provided to Washington Township, Westmoreland County, is limited to West Haven Nursing Home and Westview Manor; (3) the service provided in Cabot Borough, Butler County, is limited to Concordia Health Care; (4) the service provided to Saxonburg Borough, Butler County, is limited to Saxony Health Center; (5) the service is limited to the use of vehicles modified to handle wheelchairs and having emergency vehicle registration plates; and (6) the service is limited to transportation of persons who are nonambulatory or persons who, due to chronic or acute physical or mental conditions, require pre-trip preparations such as assistance in being dressed or lifted or medical monitoring or the use of medical appliances or equipment or a medical escort during transit. *Attorney:* Jeffrey W. Miller, 158 Grant Avenue, Vandergrift, PA 15690.

**A-00120815. Robert W. Alexander, Jr. and Linda L. Griffin** (309 Main Street, Prospect, Butler County, PA 16052)—persons, in limousine service, between points in the Counties of Butler, Lawrence, Mercer and Indiana, and from points in said counties, to points in this Commonwealth, and return.

**Application of the following for approval of the beginning of the exercise of the right and privilege of operating motor vehicles as common carriers for the transportation of persons by transfer of rights as described under the application.**

**A-00120807. Online Corp.** (4187 New Holland Road, Mohnton, Berks County, PA 19540), a corporation of the Commonwealth—persons, in limousine service, between points in this Commonwealth; which is to be a transfer of all the right authorized under the certificate issued at A-00109436 to Lifestyle Limousine, Inc., subject to the same limitations and conditions. *Attorney:* J. Bruce Walter, Twelfth Floor, One South Market Square, P. O. Box 1146, Harrisburg, PA 17108-1146.

JAMES J. MCNULTY,  
*Secretary*

[Pa.B. Doc. No. 04-1106. Filed for public inspection June 18, 2004, 9:00 a.m.]

### Wastewater Service

**A-230240F0022. Little Washington Wastewater Company d/b/a Suburban Wastewater Company.** Application of Little Washington Wastewater Company d/b/a Suburban Wastewater Company for approval of: (1) the acquisition, by purchase, of the wastewater system assets of Deerfield Knoll Homeowners Association; and (2) the right of Little Washington Wastewater Company to begin to offer, render, furnish or supply wastewater service to the public in a portion of Willistown Township, Chester County.

Formal protests and petitions to intervene must be filed in accordance with 52 Pa. Code (relating to public utilities). Filings must be made with the Secretary, Pennsyl-

vania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265, with a copy served on the applicant, on or before July 6, 2004. The documents filed in support of the application are available for inspection and copying at the Office of the Secretary between 8 a.m. and 4:30 p.m., Monday through Friday, and at the applicant's business address.

*Applicant:* Little Washington Wastewater Company

*Through and By Counsel:* Frances P. Orth, Esquire, 762 West Lancaster Avenue, Bryn Mawr, PA 19010.

JAMES J. MCNULTY,  
*Secretary*

[Pa.B. Doc. No. 04-1107. Filed for public inspection June 18, 2004, 9:00 a.m.]

## PHILADELPHIA REGIONAL PORT AUTHORITY

### Request for Bids

The Philadelphia Regional Port Authority (PRPA) will accept sealed bids for Project # 04-075.4, Facility Lighting Upgrades at Tioga Marine Terminal (TMT), Piers 38-40, 78, 80, 82, 84, 96 & 98 South, until 2 p.m. on Thursday July 8, 2004. The bid documents can be obtained from the Director of Procurement, PRPA, 3460 N. Delaware Ave., 2nd Floor, Philadelphia, PA 19134, (215) 426-2600 and will be available July 22, 2004. Additional information and project listings can be found at [www.philaport.com](http://www.philaport.com). The cost of the bid document is \$35 (includes 7% Pennsylvania sales tax). The cost is nonrefundable. PRPA is an equal opportunity employer. Contractors must comply with all applicable equal opportunity laws and regulations.

A mandatory prebid job site meeting will be held at the PRPA office on July 1, 2004, at 10 a.m. at the Port of Philadelphia Administration Building, 3460 N. Delaware Ave., 2nd Floor (Tioga St. and Delaware Ave.), Philadelphia, PA 19134.

JAMES T. MCDERMOTT, Jr.,  
*Executive Director*

[Pa.B. Doc. No. 04-1108. Filed for public inspection June 18, 2004, 9:00 a.m.]

### Request for Proposals

The Philadelphia Regional Port Authority (PRPA) will accept proposals until 2 p.m. on Thursday, July 8, 2004, for Project # 04-046.P (Cleaning/Janitorial Services—TAB). Bid openings will be held at 3460 N. Delaware Ave., Philadelphia, PA 19134. The bid documents can be obtained from the Director of Procurement, 3460 N. Delaware Ave., 2nd Floor, Philadelphia, PA 19134, (215) 426-2600 and will be available June 22, 2004. PRPA is an equal opportunity employer. Vendors will be required to comply with all applicable equal employment opportunity laws and regulations.

A mandatory prebid meeting will be held on Thursday July 1, 2004, at 10 a.m. at 3460 N. Delaware Ave.,



Philadelphia, PA 19134. PRPA will only consider bids received from parties who attended the prebid meeting.

JAMES T. MCDERMOTT, Jr.,  
*Executive Director*

[Pa.B. Doc. No. 04-1109. Filed for public inspection June 18, 2004, 9:00 a.m.]

## PUBLIC SCHOOL EMPLOYEES' RETIREMENT BOARD

### Hearings Scheduled

Hearings have been scheduled, as authorized by 24 Pa.C.S. Part IV (relating to Public School Employees' Retirement Code), in connection with the Public School Employees' Retirement System's (System) denial of claimants' requests concerning the indicated accounts.

The hearings will be held before a hearing examiner at the Public School Employees' Retirement System, 5 North Fifth Street, Harrisburg, PA 17101:

July 14, 2004	Joseph A. Digiorio (Purchase of Service)	1 p.m.
August 11, 2004	Joanne Digiueppe (Waiver of Repayment)	1 p.m.
	Linda Radcliff Champion (Purchase of Maternity Leave)	2:30 p.m.
August 25, 2004	Grace D'Alo (Purchase of Service)	1 p.m.

Persons with a disability who wish to attend the listed hearings and require an auxiliary aid, service or other accommodation to participate in the proceedings should contact Marilyn Fuller-Smith, Assistant to the Executive Director, (717) 720-4921 to discuss how the System may best accommodate their needs.

Parties may appear with or without counsel and offer relevant testimony or evidence to support their respective positions. The hearings will be held in accordance with the requirements of 2 Pa.C.S. §§ 501—508 and 701—704

(relating to the Administrative Agency Law). Under 22 Pa. Code § 201.1 (relating to applicability of general rules), procedural matters will be in conformance with 1 Pa. Code Part II (relating to the General Rules of Administrative Practice and Procedure) unless specific exemption is granted.

JEFFREY B. CLAY,  
*Executive Director*

[Pa.B. Doc. No. 04-1110. Filed for public inspection June 18, 2004, 9:00 a.m.]

## STATE TAX EQUALIZATION BOARD

### 2003 Common Level Ratio

The State Tax Equalization Board (Board) has established a common level ratio for each county in this Commonwealth for the calendar year 2003. The ratios were mandated by the act of December 13, 1982 (P. L. 1158, No. 267).

The law requires the Board to use statistically acceptable techniques, to make the methodology for computing ratios public and to certify, prior to July 1, the ratio to the Chief Assessor of each county each year.

The statistical technique which the Board used for the 2003 common level ratio is to determine the arithmetic mean of the individual sales ratios for every valid sale received from the county for the calendar year 2003.

The methodology used is to include every valid sale with a ratio from 1% to 100% and compute a mean. Using this mean as a base, the Board has defined high and low limits by multiplying and dividing this computed mean by 4. Using these computed limits, the Board has utilized the valid sales, rejecting those sales which exceed the limits. The resulting arithmetic mean ratio is the ratio which the Board is certifying as the common level ratio for each county for 2003.

There is one exception to this procedure. The original mean ratio for those counties which have a predetermined assessment ratio for 2003 of 100% will utilize valid sales from 1% to 200%.

The common level ratios for 2003 are listed as follows:

### 2003 Common Level Ratios

<i>County</i>	<i>Ratio</i>	<i>County</i>	<i>Ratio</i>	<i>County</i>	<i>Ratio</i>
ADAMS	34.6	ELK	19.8	*MONTGOMERY	68.7
*ALLEGHENY	93.9	*ERIE	91.8	MONTOUR	8.8
ARMSTRONG	39.7	*FAYETTE	97.5	NORTHAMPTON	39.2
BEAVER	32.2	FOREST	21.1	NORTHUMBERLAND	13.4
*BEDFORD	19.5	*FRANKLIN	14.5	*PERRY	91.0
*BERKS	86.3	*FULTON	50.4	PHILADELPHIA	26.8
BLAIR	7.9	*GREENE	88.7	PIKE	22.7
BRADFORD	43.3	HUNTINGDON	15.9	*POTTER	42.2
BUCKS	3.1	INDIANA	13.7	SCHUYLKILL	43.2
BUTLER	10.4	JEFFERSON	18.8	SNYDER	16.4
CAMBRIA	16.3	*JUNIATA	17.7	SOMERSET	40.5
CAMERON	37.3	*LACKAWANNA	19.2	SULLIVAN	23.4
CARBON	43.2	*LANCASTER	81.7	SUSQUEHANNA	41.4
CENTRE	37.3	*LAWRENCE	93.0	*TIOGA	90.4
*CHESTER	68.0	LEBANON	8.2	UNION	16.2
CLARION	19.0	LEHIGH	40.8	*VENANGO	92.1
CLEARFIELD	19.1	LUZERNE	6.8	WARREN	36.8

**NOTICES****3221**

<i>County</i>	<i>Ratio</i>	<i>County</i>	<i>Ratio</i>	<i>County</i>	<i>Ratio</i>
CLINTON	28.3	LYCOMING	62.4	WASHINGTON	15.4
COLUMBIA	32.8	MCKEAN	22.5	WAYNE	8.2
CRAWFORD	33.9	*MERCER	28.6	*WESTMORELAND	21.1
*CUMBERLAND	90.4	MIFFLIN	49.3	WYOMING	23.7
*DAUPHIN	87.7	MONROE	17.9	*YORK	80.9
*DELAWARE	79.5				

\*Counties with a predetermined assessment ratio of 100%

DANIEL G. GUYDISH,  
*Chairperson*

[Pa.B. Doc. No. 04-1111. Filed for public inspection June 18, 2004, 9:00 a.m.]

\_\_\_\_\_

# STATE CONTRACTS INFORMATION

## DEPARTMENT OF GENERAL SERVICES

Act 266 of 1982 provides for the payment of interest penalties on certain invoices of "qualified small business concerns". The penalties apply to invoices for goods or services when payments are not made by the required payment date or within a 15 day grace period thereafter.

Act 1984-196 redefined a "qualified small business concern" as any independently owned and operated, for-profit business concern employing 100 or fewer employees. See 4 Pa. Code § 2.32. The business must include the following statement on every invoice submitted to the Commonwealth: "(name of business) is a qualified small business concern as defined in 4 Pa. Code 2.32."

A business is eligible for payments when the required payment is the latest of:

The payment date specified in the contract.

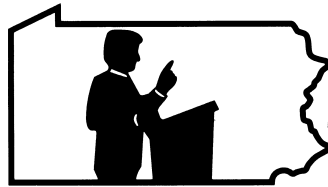
30 days after the later of the receipt of a proper invoice or receipt of goods or services.

The net payment date stated on the business' invoice.

A 15-day grace period after the required payment date is provided to the Commonwealth by the Act.

For more information: contact: Small Business Resource Center  
PA Department of Community and Economic Development  
374 Forum Building  
Harrisburg, PA 17120  
800-280-3801 or (717) 783-5700

### Reader's Guide



Legal Services & Consultation

① Service Code Identification Number

② Commodity/Supply or Contract Identification No.

**B-54137.** Consultant to provide three 2-day training sessions, covering the principles, concepts, and techniques of performance appraisal and standard setting with emphasis on performance and accountability, with a knowledge of State Government constraints.

Department: General Services

Location: Harrisburg, Pa.

Duration: 12/1/93-12/30/93

Contact: Procurement Division  
787-0000

③ Contract Information

④ Department

⑤ Location

⑥ Duration

⑦

(For Commodities: Contact:)  
Vendor Services Section  
717-787-2199 or 717-787-4705

### REQUIRED DATA DESCRIPTIONS

- ① Service Code Identification Number: There are currently 39 state service and contractual codes. See description of legend.
- ② Commodity/Supply or Contract Identification No.: When given, number should be referenced when inquiring of contract of Purchase Requisition. If more than one number is given, each number represents an additional contract.
- ③ Contract Information: Additional information for bid preparation may be obtained through the departmental contracting official.
- ④ Department: State Department or Agency initiating request for advertisement.
- ⑤ Location: Area where contract performance will be executed.
- ⑥ Duration: Time estimate for performance and/or execution of contract.
- ⑦ Contact: (For services) State Department or Agency where vendor inquiries are to be made.

(For commodities) Vendor Services Section (717) 787-2199 or (717) 787-4705

## PA TREASURY BUSINESS OUTLET—PLUG INTO IT!

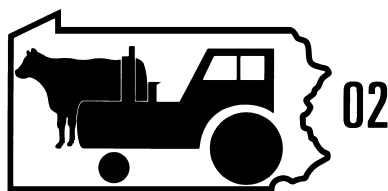
The Treasury Department's Bureau of Contracts and Public Records can help you do business with state government agencies. Our efforts focus on guiding the business community through the maze of state government offices. The bureau is, by law, the central repository for all state contracts over \$5,000. Services are free except the cost of photocopying contracts or dubbing a computer diskette with a list of current contracts on the database. A free brochure explains how to take advantage of available services.

Contact: **Bureau of Contracts and Public Records**

Pennsylvania State Treasury  
Room 201 Finance Building  
Harrisburg, PA 17120  
717-787-4586  
1-800-252-4700  
BizOutlet@ptreasury.org

BARBARA HAFFER,  
*State Treasurer*

## SERVICES



### Agricultural Services

**1/4** Provide fish food used in a statewide fish culture program during the period July 01, 2004 through September 30, 2004. Fish food products purchased in bulk and bagged quantities only from vendors who have had their products tested and accepted by the Fish and Boat Commission.

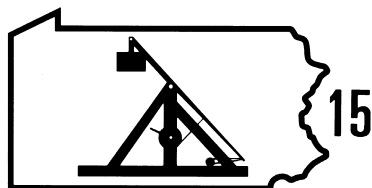
**Department:** Fish and Boat Commission  
**Location:** Statewide to various fish culture stations as requested.  
**Duration:** July 01, 2004 - September 30, 2004  
**Contact:** Debbie Rose, (814) 359-5141



### Financial and Insurance Consulting

**2004-01** The Pennsylvania Health Care Cost Containment Council (PHC4), an independent Pennsylvania state agency government, is accepting grant applications related to developing and demonstrating severity adjustment methods for measuring and publicly reporting complication rates for inpatient admissions to Pennsylvania Hospitals. PHC4 will accept and evaluate applications for two types: development of new methodologies to measure complication rate and demonstration of existing methodologies. This project is designed to identify candidate methodologies that PHC4 might employ to supplement its existing Hospital Performance Reports, copies of which may be found at [www.phc4.org](http://www.phc4.org). PHC4's current methodology only indirectly assesses the impact of complications on outcomes, and PHC4 seeks to identify methodologies that can be used to measure complication rates directly. A copy of the RFA can be downloaded from the PHC4 Web site: [www.phc4.org](http://www.phc4.org). Questions regarding this RFA should be addressed to Cherie Elias, Director of Administration at (717) 232-6787 or [celias@phc4.org](mailto:celias@phc4.org).

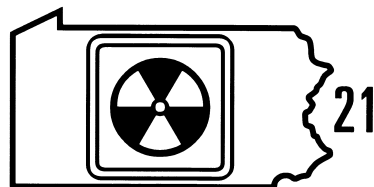
**Department:** PA Health Care Cost Containment Council  
**Location:** 225 Market Street, Suite 400, Harrisburg, PA 17101  
**Duration:** 6 months to 1 year  
**Contact:** Cherie Elias, (717) 232-6787



### Environmental Maintenance Service

**OSM 56(0240)101.1** Mine Subsidence Control Project, Central City. The principal items of work and approximate quantities include 70 linear feet of overburden drilling and casing, 230 linear feet of four inch air rotary drilling, 225 linear feet of furnishing and installing four inch nominal steel or PVC injection casing, and sealing 8 boreholes. This project also includes the supply, delivery and injection of grout material which includes 2,046 bags of cement, 682 tons of flyash and 10 tons of stone (AASHTO No. 57). This project issues on June 25, 2004 and bids will be opened on July 29, 2004 at 2:00 p.m. Payment in the amount of \$10.00 must be received before bid documents will be sent. Federal funds for this project have been made available from the \$26.1 million for Pennsylvania's 2003 AML Grant.

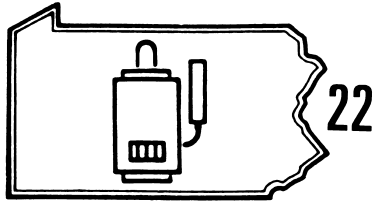
**Department:** Environmental Protection  
**Location:** Shade Township, Somerset County, PA  
**Duration:** 45 calendar days after the official starting date.  
**Contact:** Construction Contracts Section, (717) 783-7994



### Hazardous Material Services

**12006** Remove and properly dispose of approximately 10,500 square feet of floor tile and mastic. Tile contains small percentage of asbestos.

**Department:** Military Affairs  
**Location:** Scotland School for Veterans' Children, 3583 Scotland Rd., Scotland, PA 17254-0900  
**Duration:** July 12, 2004 - August 15, 2004  
**Contact:** Marion E. Jones, (717) 264-7187, x661



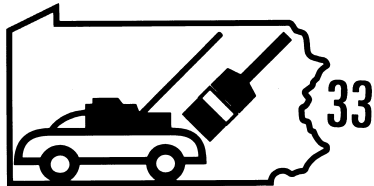
### HVAC Services

**CN00009422** Various types of Building Wire. To request a bid package, please send a fax to 570-587-7108 with your company name, address, telephone and fax numbers, Federal ID number and PA State Vendor number. Bid packages cannot be faxed.

**Department:** Public Welfare  
**Location:** Clarks Summit State Hospital, 1451 Hillside Drive, Clarks Summit, PA 18411-9505  
**Duration:** July 1, 2004 - July 30, 2004  
**Contact:** Stanley Rygelski, 570-587-7291

**SSHE 401-BL-720** Work under this project consists of various electrical work in campus housing at Bloomsburg University. Install new generators; automatic transfer switches and control panels; ventilation equipment and emergency lighting in various dorms and apartments. To obtain a copy of the bid documents submit a \$50.00 non-refundable deposit to Larson Design Group, 1000 Commerce Park Drive, Williamsport, PA 17703-0487, phone #570-323-6603. The pre-bid conference will be held on June 22, 2004 at 10:00 am. Bids due July 12, 2004 at 1:00 p.m. All other pertinent information will be in the bid documents.

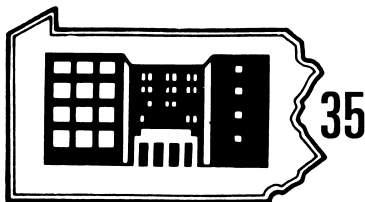
**Department:** State System of Higher Education  
**Location:** Bloomsburg University, 400 East Second Street, Bloomsburg, PA 17815  
**Duration:** 60 Calendar days  
**Contact:** Diann Shamburg, (570) 389-4312



### Property Maintenance

**cn00009455** Installation of approximately 12,000 square feet of vinyl composition tile including cove base, reducer, glue, and any necessary patching.

**Department:** Public Welfare  
**Location:** North Central Secure Treatment Unit, Green Building, Copper Beech Drive, Danville, PA (located on the grounds of the Danville State Hospital)  
**Duration:** Unknown  
**Contact:** Dee Kuhn, Purchasing Agent, (717) 789-5509



### Real Estate Services

**PROJECT No. 04 -02** Cheyney University of Pennsylvania located at 1837 University Circle, P.O. Box 200, Cheyney, PA 19319-0200, intends to solicit bids from real estate brokers for the sale of its university owned single family residence located at 160 William Penn Boulevard in West Chester, PA. Request for proposal will be available on or about June 19th, 2004. A pre-bid meeting will be held on or about June 28th, 2004 at 10:00 a.m. Bids are due July 13th, 2004, no later than 2:00 p.m. EST in room 308, Wade Wilson Administration Building on the university's main campus. Interested bidders wishing to receive a copy of the RFP should view the Department of General Services website at [www.dgs.state.pa.us](http://www.dgs.state.pa.us); and click on "real estate" to RFP package or call Mr. George Banks at 610-399-2222.

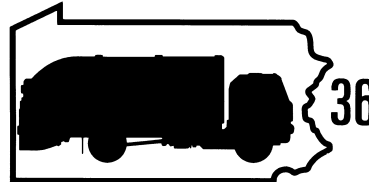
**Department:** State System of Higher Education  
**Location:** Cheyney University, Cheyney, PA  
**Contact:** George Banks, (610) 399-2222

**93713** Lease office/warehouse space to the Commonwealth of PA. Proposals are invited to provide the Department of Revenue with 7,811 useable square feet of office/warehouse space within the City of Bethlehem, Northampton County, PA. Downtown locations will be considered. For more information on SFP #93713 which is due on July 26, 2004 visit [www.dgs.state.pa.us](http://www.dgs.state.pa.us) and click on "Real Estate" to download an SFP package or call (717) 787-4396.

**Department:** Revenue  
**Location:** 505 North Office Building, Harrisburg, PA 17125  
**Contact:** John Hocker, (717) 787-4396

**93716** Lease office space to the Commonwealth of PA. Proposals are invited to provide the Department of General Services with 35,691 useable square feet of office space within a 1/4 mile radius of the Capitol Complex, Harrisburg, Dauphin County, PA. Downtown locations will be considered. For more information on SFP #93716 which is due on June 21, 2004 visit [www.dgs.state.pa.us](http://www.dgs.state.pa.us) and click on "Real Estate" to download an SFP package or call (717) 787-0952.

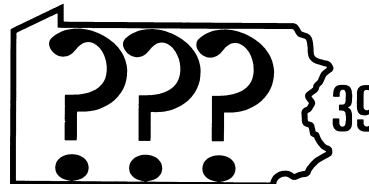
**Department:** General Services  
**Location:** 505 North Office Building, Harrisburg, PA 17125  
**Contact:** Mrs. Cynthia T. Lentz, (717) 787-0952



### Sanitation

**113-1081** Contractor shall provide trash removal services for Southwestern Veterans Center. Specifications available upon request.

**Department:** Military Affairs  
**Location:** Southwestern Veterans Center, 7060 Highland Dr., Pittsburgh, PA 15106  
**Duration:** 09/01/2004-08/31/2007  
**Contact:** Ken Wilson, (412) 665-6727



### Miscellaneous

**04-02** This service is for an inmate culinary arts training program. The awarded vendor will be expected to provide training on food service practices such as food preparation and sanitation to selected inmates. All required training materials must also be supplied by the vendor.

**Department:** Corrections  
**Location:** PA Dept. of Corrections Training Academy, 1451 N. Market Street, Elizabethtown, PA 17022  
**Duration:** Approx. 9 months  
**Contact:** George Chicoine, (717) 361-4321

[Pa.B. Doc. No. 04-1112. Filed for public inspection June 18, 2004, 9:00 a.m.]

## DESCRIPTION OF LEGEND

- |  |   |
|--|---|
| <p><b>1</b> Advertising, Public Relations, Promotional Materials</p> <p><b>2</b> Agricultural Services, Livestock, Equipment, Supplies &amp; Repairs: Farming Equipment Rental &amp; Repair, Crop Harvesting &amp; Dusting, Animal Feed, etc.</p> <p><b>3</b> Auctioneer Services</p> <p><b>4</b> Audio/Video, Telecommunications Services, Equipment Rental &amp; Repair</p> <p><b>5</b> Barber/Cosmetology Services &amp; Equipment</p> <p><b>6</b> Cartography Services</p> <p><b>7</b> Child Care</p> <p><b>8</b> Computer Related Services &amp; Equipment Repair: Equipment Rental/Lease, Programming, Data Entry, Payroll Services, Consulting</p> <p><b>9</b> Construction &amp; Construction Maintenance: Buildings, Highways, Roads, Asphalt Paving, Bridges, Culverts, Welding, Resurfacing, etc.</p> <p><b>10</b> Court Reporting &amp; Stenography Services</p> <p><b>11</b> Demolition—Structural Only</p> <p><b>12</b> Drafting &amp; Design Services</p> <p><b>13</b> Elevator Maintenance</p> <p><b>14</b> Engineering Services &amp; Consultation: Geologic, Civil, Mechanical, Electrical, Solar &amp; Surveying</p> <p><b>15</b> Environmental Maintenance Services: Well Drilling, Mine Reclamation, Core &amp; Exploratory Drilling, Stream Rehabilitation Projects and Installation Services</p> <p><b>16</b> Extermination Services</p> <p><b>17</b> Financial &amp; Insurance Consulting &amp; Services</p> <p><b>18</b> Firefighting Services</p> <p><b>19</b> Food</p> <p><b>20</b> Fuel Related Services, Equipment &amp; Maintenance to Include Weighing Station Equipment, Underground &amp; Above Storage Tanks</p> <p><b>21</b> Hazardous Material Services: Abatement, Disposal, Removal, Transportation &amp; Consultation</p> | <p><b>22</b> Heating, Ventilation, Air Conditioning, Electrical, Plumbing, Refrigeration Services, Equipment Rental &amp; Repair</p> <p><b>23</b> Janitorial Services &amp; Supply Rental: Interior</p> <p><b>24</b> Laboratory Services, Maintenance &amp; Consulting</p> <p><b>25</b> Laundry/Dry Cleaning &amp; Linen/Uniform Rental</p> <p><b>26</b> Legal Services &amp; Consultation</p> <p><b>27</b> Lodging/Meeting Facilities</p> <p><b>28</b> Mailing Services</p> <p><b>29</b> Medical Services, Equipment Rental and Repairs &amp; Consultation</p> <p><b>30</b> Moving Services</p> <p><b>31</b> Personnel, Temporary</p> <p><b>32</b> Photography Services (includes aerial)</p> <p><b>33</b> Property Maintenance &amp; Renovation—Interior &amp; Exterior: Painting, Restoration, Carpentry Services, Snow Removal, General Landscaping (Mowing, Tree Pruning &amp; Planting, etc.)</p> <p><b>34</b> Railroad/Airline Related Services, Equipment &amp; Repair</p> <p><b>35</b> Real Estate Services—Appraisals &amp; Rentals</p> <p><b>36</b> Sanitation—Non-Hazardous Removal, Disposal &amp; Transportation (Includes Chemical Toilets)</p> <p><b>37</b> Security Services &amp; Equipment—Armed Guards, Investigative Services &amp; Security Systems</p> <p><b>38</b> Vehicle, Heavy Equipment &amp; Powered Machinery Services, Maintenance, Rental, Repair &amp; Renovation (Includes ADA Improvements)</p> <p><b>39</b> Miscellaneous: This category is intended for listing all bids, announcements not applicable to the above categories</p> |
|--|---|

DONALD T. CUNNINGHAM, Jr.  
*Secretary*







